

**INTERETHNIC RELATIONS, MINORITY RIGHTS AND
SECURITY CONCERNS:
A FOUR-COUNTRY PERSPECTIVE
(UKRAINE – MOLDOVA – ROMANIA – HUNGARY)**

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Preface

Minority rights, as well as a whole sphere of minority-majority relations, remain yet a poorly defined element of international law, also of interstate and domestic policies, which are often complicated by security concerns at both state and societal levels. Until recently, human rights debates, as well as legal system(s) of human rights protection, were focused on individual rights as a cornerstone of liberal democracy. This trend has been rooted in a tragic humankind experience of XX century, especially of World War II widely perceived as provoked by defending the “collective rights” of Sudeten Germans, used as a pretext. Consequently, the newly emerged post-war global organisation – the United Nations – in its famous Universal Declaration on Human Rights avoided any mentioning of collective rights, whereas basic legally binding human rights treaties usually mention the collective rights of minorities only vaguely, like “a person belonging to minority group” or “exercising [certain particular right] together with others [members of the group]”. Fears of providing collective rights for ethnic entities have been further aggravated by a confusion surrounding the very concept of peoples/nations self-determination, also by growing risks to keeping intact the established principles of states’ sovereignty and inviolability of their borders, challenged by protracted separatist conflicts, in particular, on the territories of post-soviet countries and in the Balkans. At the same time, already implemented minority rights policies in certain European countries present forms of protection that go far beyond the basic civil and political rights guaranteed to all individuals in a liberal democracy. Establishing minority self-governments; providing territorial or cultural autonomy to minority groups; the funding of activities and organisations of national minorities, also of bilingual education or mother-tongue instruction; introduction of particular forms of affirmative/positive action, including guaranteed representation in power bodies, consulting minorities by government agencies dealing with issues affecting minorities could be named as good practices and a source of inspiration for spreading these practices beyond national borders.

The collapse of the Eastern European bloc dominated by the Soviet Union, and the disappearance of the latter put minority rights and inter-ethnic relations in Central Eastern Europe (CEE) high on the agenda of European and international organisations and institutions. Traditionally, these and related issues have been addressed by the CSCE/OSCE and the Council of Europe, with a much lower interest on the side of the European Union. The shift of attention towards the CEE region after 1989 was conditioned, by all means, by security concerns. In its activities, the OSCE operated mainly by using political instruments, of which the most important was the establishment in 1993 of the High Commissioner on National Minorities. This institution prepared a number of important documents, including the Lund Recommendations on the Effective Participation of National Minorities in Public Life (1999). The apparent weakness of this approach is the lack of enforcement mechanisms, thus leaving the implementation of this and other commendable recommendations to depend on a good will of governments of OSCE member states. The CoE did manage, after hot debates, to adopt the two legally binding instruments – the European Charter for Regional and Minority Languages (ECRML) and the Framework Convention for the Protection of National Minorities (FCNM) in 1992 and 1995, respectively. However, these mechanisms and instruments turned out not sufficient to ensure stronger national regimes for promoting ethno-cultural diversity and minority protection or to settle regional territorial disputes, in which ethno-cultural or religious differences and political mobilisation of certain groups contributed to eruption of violent conflicts and bloodshed.

In contrast to the OSCE and the CoE, the EU as an entity has not paid much attention to human and minority rights, and had no codified minority policy of its own for quite a long time. As a result, in view of impending enlargement to the east it relied mostly on strategies and instruments elaborated by these two organisations. For example, the “Agenda 2000” elaborated

by the European Commission in 1997 has referred to the FCNM and the PACE Recommendation 1201 (1993) on national minorities as guidelines for prospective members.

A growing EU's attention to the protection of national minorities in CEE has been determined, first of all, by security concerns related to specific historical experience of the region, its majority-minority relations somewhat distinct from those of the European and Euro-Atlantic "West", and the threats to all-European stability coming, presumably, from the perceived disposition to "cultural intolerance" and inter-ethnic violence exemplified in Balkan wars. Being preoccupied by those actual and potential threats, the EU ended up the acquiring of an unexpectedly strong leverage of its own. Its essence is application of a so-called "conditionality" policy enshrined in the "Copenhagen criteria" developed by the European Council in 1993. Among other accession criteria defined by this document, "respect for and protection of minorities" has been included. By all means, the EU minority protection policy in this respect has been guided by a rather pragmatic security approach that prioritises the consensual settlement of disputes instead of seeking the enforcement of some universal norms or standards, actually non-existing. This "security pragmatism" can be seen in changing accents and priorities over a period of preparation for the "Big Bang" enlargement of 2004: at its first stage, issues of effective minority protection largely addressed territorially concentrated minorities, as well as problems of their (territorial) autonomies, proceeding obviously from the fears of territorial disputes. Later on, the focus was shifted to Roma predicaments in CEE, regarded as threatening to cause a massive influx of Roma populations from CEE countries to more prosperous European West. Quite different treatment in this respect of the EU initial, "old" member states vis-à-vis accession countries gave rise to accusations of using "double standards" with regard to minority policies and inter-ethnic relations.

In fact, the absence of an EU minority rights *acquis* is quite understandable, taking into account broad diversity of the existing national approaches and high sensitivity of minority issues in both old and new member states, thus making the enlarged EU unable to codify specific common standards. However, such institutions as the European Commission, the Council of Ministers and the European Parliament had skilfully used the Copenhagen criteria as the five main "reference points" to assess whether accession countries fulfilled the "minority criterion" and reached an effective protection of national minorities. Although the direct influence of the prospects for entering the EU on shaping governmental strategies in candidate countries is somewhat questionable, the close connection between the process of preparation for joining the EU and positively changed domestic attitudes towards majority-minority relations and minority rights is beyond any doubt. The "loose coupling" between evaluations and enlargement decisions has worked as a strong incentive for accession countries, providing at the same time convenient and flexible framework for the EU.

Moreover, although particular common standards of minority rights did not become a constituent part of the EU law, decisive steps in this direction have been made over the decade beginning from 1997 – the European Year Against Racism. It sparked off different initiatives, including the unanimous adoption of the Treaty of Amsterdam with its Article 13 that granted the European Community new powers to combat discrimination on the grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Since the Treaty of Amsterdam came into force in 1999, new EU laws, or so-called Equal Treatment Directives, have been enacted in the area of anti-discrimination. These are the Racial Equality Directive, 2000/43, and the Employment Equality Directive, 2000/78. Those documents oblige all member states to establish a legal framework to prohibit discrimination on the grounds of racial or ethnic origin, gender, religion or belief, age, disability and sexual orientation. The two Directives were adopted in order to ensure a minimum standard of protection in these areas while not preventing member states from providing greater protection against discrimination. They also contain a glossary

addressing such issues as direct and indirect discrimination, and “positive action” (as distinct, in this context, from the notion of “positive discrimination”). An important point is that the Directives protect everyone in the European Union, including persons who are not EU citizens.

As 2007 is declared *European Year of Equal Opportunities for All*, these steps should be considered as signals for not only EU member states, but also for neighbouring countries which share European values based on principles of equality, non-discrimination, promoting ethno-cultural diversity, and which wish to join the EU in the future. These recent developments might induce reflections on whether the EU initial preoccupation with interrelated minority and security concerns in the CEE region has had also some impact on the EU internal policies. If some kind of feedback did compel the EU to pay more attention to inter-ethnic relations within its own space – in particular, by enforcing the regime of non-discrimination, this move is paving the way for a mutually beneficial, two-sided process covering both the EU and its eastern neighbourhood.

In the light of the said above, it is clear that sharing and comparing the concrete experiences of the four CEE countries, being at quite different stages of their path towards European integration, would be of special interest as a research study, beneficial also for those actors of civil society that share common European values and are committed to applying European approaches to minority protection and peaceful settling of ethno-political crises to their domestic situations. Of the four countries – participants to the Project – **Hungary** that successfully joined the EU in 2004 has a unique history of minority protection and conflict prevention. After 1989 its policies in this sphere, although aimed at returning to the “European family of nations”, were also motivated by its own specific national interests and were going beyond the EU demands and criteria. **Romania**, the newcomer to the EU as of January 1, 2007, has an impressive record of remarkably improving its minority-related policies during the accession period, particularly by essentially overcoming historically tensed Hungarian-Romanian relations in the Transylvanian region. **Ukraine** and the **Republic of Moldova** – the countries having up to date no clear prospects for the EU membership – are developing their own strategies and tactics in areas of majority-minority relations and minority rights, trying to keep them in line with the international and especially European norms and standards. These countries have in common a shared context of endeavours to overcome the post-soviet legacy of “soviet internationalism”, linked to revival and re-shaping the identities of not only minority, but also majority populations still suffering from the results of the enforced Russification. In terms of security concerns, there are essential differences between the two countries, related in particular to policies and measures taken for accommodation of specific ethnic groups, sometimes defined as “stateless nations” (Gagauz in Moldova, Crimean Tatars in Ukraine). Their progress in nation-building and achieving domestic “Europeanization” is also halted because of certain territorial problems. In the case of the Republic of Moldova, it is protracted “frozen conflict” in Transnistrian region; for Ukraine, there is a persistent potential threat of separatist conflict in Crimea (now aggravated by escalated inter-ethnic tensions), and eastern parts of Ukraine, traditionally leaning to Russia rather than to the West.

Coming together to address difficult and delicate issues of majority/minority relations and minority rights in a general context of security concerns has also an added value of fostering horizontal contacts and stimulating dramatically underdeveloped collaboration between the NGOs and other actors of civil society of these particular countries, thus contributing to regional and pan-European stability, security, and prosperity. To realise these goals, a unique opportunity has been provided by the East-East Program: Partnership Beyond Borders, for which all the participants express their deep and sincere gratitude.

Introduction

The extensive political, economic and social changes in Central and Eastern Europe after the “velvet revolutions” and the break-up of the USSR have brought the issues of cultural diversity and minority rights high on the international agenda. The processes of democratisation, promoting the rule of law, empowering of civil society create favourable conditions for harmonising majority/minority relations that is an important prerequisite for strengthening national and regional security. The emergence of a social environment, where minorities can freely maintain, develop and express their own identities by using different national and international instruments and mechanisms, can be seen as a first step for “all different – all equal” slogan to become a pan-European success story. Further developments in minority-related policies should promote the four “key messages” – rights, representation, recognition and respect – of 2007, the European Year of Equal Opportunities for All, which is of vital importance for not only EU member states, but also for neighbouring East European countries.

In pursuing this common goal, closer regional cooperation at all levels is needed to facilitate sharing experience in developing national legislations, defining successful strategies and state policies, providing concrete examples of good practices. Striving for establishing such a cooperation between NGOs of the four countries – participants of the project, we have worked together to address in a joint publication the most topical minority issues in Hungary, Moldova, Romania and Ukraine, with a special focus on a regional context.

We believe that difficult historical past and some recent – not only positive – experience of interstate relations have resulted in underdeveloped connections and contacts between actors of civil societies of the four countries. In view of this, we hope that the quadrilateral format of the proposed publication might fill the existing gap in expert discourse on the important issues mentioned above.

The focal point of the project is a comparative research on majority-minority relations and minority situations in our particular region.

The **first part** is focused on region’s historical background and current political context (covering a period after 1989 – 1991). It also provides the reader with the overview of certain selected case studies, addressing most sizable minorities; typical “national minorities” whose “kin states” are parties to this quadrilateral project; and minorities that are often perceived as a potential or real threat to state/societal security* .

The **second part** focuses on the national legislations and governmental programmes aimed at ensuring minority rights and improving inter-ethnic relations. Taking into account that within a sensitive sphere of minority protection, a broader European perspective is essential for understanding the successes and failures of states’ minority-related policies, we tried to assess the implementation of European norms and standards in the respective countries, and the impact on state policies of the process of EU enlargement. Comparative analysis of various legal guidelines and precedents provides ground for identifying good practices that can be used in other countries, as well as certain shortcomings that might be overcome.

The **third part** deals with the contribution of civil society into settling potential ethnic conflict, diffusing inter-ethnic tensions and shaping the respective countries’ minority-related policies. It focuses on the activities of the NGOs working in the area of minority rights, and civic initiatives

* Except Hungary, whose experts – participants of the project – do not see any challenges or risks for their country caused by interethnic relations or minority claims.

for combating different forms of xenophobia, promoting intercultural dialogue, tolerance, mutual respect and understanding.

The fourth part named Concluding Remarks, which contains the selected examples of both good practices and shortcomings, aims to offer ideas and formulate concrete recommendations as to what and how the participating states and their societies could do for establishing stronger regimes of minority rights protection, thus contributing to regional stability and security.

PART I

General Overview

I.1. Regional historical context

Neighbourhood relationships between the four countries – participants of the project – were burdened with unresolved historical tensions and various concerns among and about peoples and ethnic groups, deeply affected by World War I and its consequences – first and foremost, by the collapse of once great empires. The Peace Treaties created a number of new states in a process of realisation of the peoples/nations right for self-determination. Following the negotiated agreement between the winners of that war, some of the pre-existing states were enlarged, whereas others lost not only their territories but also a substantial part of their populations, which were transformed into ethnic minorities, often living compactly in the borderland regions. For example, two-thirds of the territory and one-third of the population of pre-1918 Hungary were left outside Hungary's new borders. Such a situation created a lasting potential for conflict over the strife for further self-determination, certain territorial claims, and observing the principle of the inviolability of (rather arbitrarily established) borders of post-war sovereign states. Regional fears and hostilities re-emerged in the course of World War II, when Hungary allied with Nazi Germany and retook some of its former territories in Czechoslovakia, Romania and Yugoslavia in 1938-41. The post-World War II settlement restored the 1920 borders of Hungary and transferred Transcarpathia from Czechoslovakia to the USSR, thus making Ukraine Hungary's neighbour.

The target region of our research consists of seemingly different yet closely interconnected nations with many similar features in their past and present. Archaeologists have revealed that the earliest traces of pre-historical primitive hunters lived in the South Carpathians about a millennium ago. The ancient Greeks mentioned the Cimmerians and other mysterious tribes that supposedly practised cannibalism. The Indo-European languages spread almost all over Europe and half of Asia from the Steppes of the Northern Black Sea shore. In early antiquity the Thracians inhabited most of the Balkans, while Iranian speaking nomads developed mutually beneficial trade with Hellenistic coastal towns. The Romans defeated and conquered semi-barbaric kingdoms and tried to colonise natives, yet had to recall the legions from behind the Danube under the pressure of Germanic and Turkic invasions. By the middle of the first millennium imperial and/or heretical Christianity had been rooted in the Latinised borderland.

Byzantium inherited traditions and did its best to check the Slavs, who nevertheless managed to break through the fortified Limes and added a lot to the ethnic diversity forming medieval realms. Great Moravia in the 9th century had to fight with Franks and Avars until it was finally crushed by the Magyars. Bulgaria emerged from a Slavic-Turkic mixture. Ancient Rus assimilated the Scandinavian dynasty among her Slavic majority of the population. The strategic significance of the Danube made this crossroad a battlefield of civilizations. While the Mongol invasion destroyed Rus and shortly devastated Hungary, the Ottoman conquest had much more serious consequences. Although the Turks didn't keep numerous garrisons there, one-third of Ukraine and Hungary lived under their domination for centuries. The principalities of Moldova and Walachia as well as the Crimean Khanate had been made client states. Even Transylvania did not avoid dependence; oriental tastes lasted in the cultures and habits of these nations for a long time.

The patrimonial realms had been baptised long before the Church Schism of the mid-11th century, destined to be sandwiched between the Greek and Latin influences. As a result, Hungary

from the very beginning of her royal statehood was a Catholic stronghold. Rus predominantly adhered to the Orthodox Slavonic liturgy, though the Roman Church also had positions in all Ukrainian ethnic lands, Kyiv included (e.g. Dominicans and Franciscans at once from the 13th, and Jesuits from the 16th centuries). Walachia and Moldova had been influenced by the Slavonic and Greek yet gradually developed their own Orthodox Church. (Both Ukrainians and Romanians claim Metropolitan Peter Mohyla as a compatriot.) The Protestant Reformation made Transylvania Calvinist and spread Lutheranism among German city dwellers. The Uniates had been initially suspected as a Polish tool, yet eventually Greek Catholicism gained recognition as a powerful force to defend Ukrainian cultural identity and national self-preservation under alien rulers.

Feudalism and Absolutism had their own peculiarities there, first of all because of foreign domination. Two-thirds of Ukraine since late 14th century had been divided between the Kingdom of Poland and Great Duchy of Lithuania, drifting from personal (dynastic) to real union. In the early 16th century, the Habsburgs made Upper (now Slovakia) and so-called royal Hungary a constituent part of their Eastern possessions (Low Lands, and Spain with her colonies). They formed a durable conglomerate with the Czech Lands (Bohemia, Moravia, Silesia) and properly Alpine Austria. The rest of Hungary (Budapest included) and poly-ethnic Transylvania (with its mixed Magyar, Romanian and Slavic population) had been conquered by the Austrians during the 17th century. After several decades of Cossack self-rule and semi-independent statehood, most of Ukraine was re-divided between Muscovy and the Polish-Lithuanian Commonwealth, autonomy was destroyed and serfdom was gradually, though not completely, restored.

The partitions of Poland-Lithuania by the Habsburgs, the new Kingdom of Prussia and the Russian Empire in 1772-1795 as well as the military defeats of the Ottomans put most of Ukraine (and since 1812 also East Moldova) under the tsarist yoke. Walachia and the rest of Moldova after 1858 had united themselves into a single Principality, since 1878 the Kingdom of Romania. The Austrian Empire in 1867 was transformed into Dualist Austro-Hungary and included the ethnically mixed Kingdom of Galicia and Lodomeria, the Duchy of Bukovina and administratively non-defined Hungarian Rus (Trans-Carpathian Ukraine) till 1918. Along with Ukrainians (who were then officially called Ruthenians) they had large numbers of Poles, Romanians, and Magyars, respectively. The strong Polish minorities also lived in Volynia and Right-Bank Ukraine within the Russian Empire. The towns all over the region had very active German and especially large Jewish communities. It was also traditionally the main area of Roma wandering in East-Central Europe.

The Russian Empire and Austro-Hungarian Monarchy collapsed with World War I. Subsequent armed conflicts between successor nations had been aggravated by ideological clashes. The Communists and interventionists managed in 1918-1921 to destroy newborn national statehood in Ukraine (both republics and the Hetman monarchy) though all attempts to impose Soviet rule elsewhere in the region suffered defeat. The Treaty at Trianon in 1920 deprived Hungary of her economically and geographically well-shaped yet ethnically mixed historical lands. Many Magyars suddenly proved subjects of newly created neighbouring states, and it gave the authoritarian regime in Budapest pretext to aggressive irredentism. On the other hand, Romania as an ally of the Entente (and especially France) had almost doubled her size due to the favourable decisions by the Paris Conference. As a new regional super-power (together with the Kingdom of Serbs, Croats, and Slovenes) she has been given maximum of all her territorial claims.

The Peace at Riga in 1921 had left Galicia and Volynia to the new multinational Republic of Poland. Inhabitants of these regions suffered from unemployment, depression, inequality,

discrimination in education policies, ethnic prejudices, terrorism, and the lack of stability imminent to inter-war Europe. Sub-Carpathian Rus annexed to the Czechoslovak Republic was prosperous compared to the rest of the Ukrainian lands. The Republic of Carpathian Ukraine was desperately proclaimed in spring 1939 and then crushed by the Hungarian army. The Soviet and Nazi subversive actions contributed to permanent tension. The ineffective Little Entente of Czechoslovakia, Romania, and Yugoslavia could not prevent conflicts. The Communist Genocide (purges, preventive executions, imprisonments, forcible deportations and manmade famine) cost Ukraine at least one-third of her human lives. In 1939-1940 these persecutions spread to the West Ukrainian lands as well.

Behind the façade of seemingly unanimous support, the society under totalitarianism had alienated from one-party hypocrisy. The regimes did their best to promote militant atheism and subjugate officially recognized Churches. Yet as soon as it became possible the people began seeking their ancestry and re-establish their own identities. Concerning Ukraine, the actual situation here is far from the widespread stereotype of being Russia's twin-sister. About three-quarters of believers belong to the Ukrainian Orthodox Church (Kyiv Patriarchate or Autocephalous), while others to the Greek and Roman Catholic Church, and many Protestant denominations (Baptists, Reformats, Adventists, etc.), not to mention adherents of Judaism and Islam. Ethnicity had been inflicted worse, so native language speakers in the USSR were discriminated and suspected of bourgeois nationalism. Even now the educational network is still infiltrated by protagonists of faceless cosmopolitan Russification.

World War II modified but did not remove problems. The guerrilla resistance of Ukrainian rebels as well as the Hungarian Revolution in 1956 were suppressed by force, while Romania plunged into one of the most odious dictatorships. The Cold War global confrontation and suicidal armaments race caused lots of problems as well. After the Prague Spring of 1968, the Soviet invasion of Afghanistan in 1979, and Solidarity in Poland in the early 1980s, the collapse of totalitarianism became quite evident and inevitable. The methods varied from the Round Table in Budapest to shooting in Bucharest, yet the general trend was the same. The Warsaw Pact and Comecon dissolution were logically followed by the disintegration of the Soviet Union. Sovereignty was regained as a necessary pre-condition and a result of political pluralism, respect for private property and the protection of human rights.

The former Communist regimes isolated people from contact with the West because contrasts in standards of living would be too evident. Under the banner of internationalism, the authorities conducted a very chauvinistic policy of divide and rule. Human rights were solemnly declared in the Constitutions yet violated in everyday life. Ethnic minorities (except Herrenfolk) had been deprived of their schooling, mass media, arts, culture and destined to assimilation. Such a situation was typical in Moldova, Romania, Ukraine and elsewhere in East-Central Europe. Perhaps only Hungary did not face this because the Trianon borders restored after World War II had cut off her minorities. On the other hand, in the Soviet Union even the titular nations of its constituent republics felt as minorities in their homelands which were dominated not so much by Russians as by local renegades servile towards Moscow. Nations like Ukrainians, which had been inflicted with the evil longer and deeper, recover more slowly and painfully.

The crucial point in this respect is their attitude towards European and Euro-Atlantic integration. Hungary, Romania and the rest of East-Central Europe (with the exception of Belarus) have either already joined the EU and NATO or have at least declared such desire. In Ukraine for some reasons it is complicated and postponed. The personal ambitions and rivalry among leaders has split the democratic forces and disappointed the electorate. The quasi-Soviet revenge partisans misused the lack of alternative information to manipulate public opinion in the backward areas. Moscow proved hostile while the West proved unprepared and over-cautious to

the prospects of eventual EU-NATO membership. As a result, Ukraine is threatened with failure of the achievements of the Orange Revolution and becoming a kind of a “grey zone” between “fortress Europe” and Russia drifting towards autocratic dictatorship. Contradicting to Ukraine’s historical and national traditions, this extended transition period, hopefully, cannot last long, yet for the time being it is able to hinder Ukraine’s normal return to modern civilization as both a guarantee and symbol of the irreversibility of democratic changes.

Hungary, Moldova, Romania and Ukraine make up the backbone of the Danube-Carpathian region. Their similarity and diversity has been based on considerable natural resources and a shared historical destiny. Their respective minorities (as well as Bulgarians, Roma, and others) inhabit the ethnically mixed districts of Bessarabia, North and South Bukovyna, Trans-Carpathian Ukraine, Transylvania and the Low Danube. They were and are inseparably connected with Central Europe and the Balkans. Their historically close ties promote mutual understanding. Any comparative analysis, exchange of opinions and experiences might and should contribute to solution of common problems, and to making co-existence and co-operation, aimed at transforming the region into a stronghold of stability and prosperity, easier and mutually beneficial. Though not always ideally smooth, the always sincere, benevolent, friendly and respectful relations between scholars from all four nations in preparing this publication do reflect this reality.

I.1.1 Hungary

First of all it should be noted that most of the minorities – except the Slovenes – got to the central territory of Hungary in the medieval and early modern centuries, when the main constituent elements of the modern national identity – especially the modern languages of public life – were still not standardised, so there were simple dialects existing in a pre-modern status and differing much within the same ethnic community. Some of these minorities did not and could not really make considerable efforts to maintain connections with their places of origin and acquire the necessary elements of modern social life of their national communities. It was also remarkable that they mostly immigrated either voluntarily or in a framework of organised settlements. So they did not get into minority status under some kind of pressure, such as several other minorities living in Central and Eastern Europe.

This settlement and migration processes caused rather dispersed geographical structure: nowadays minorities live in 2500 among the nearly 3200 self-governing settlements in Hungary, but minority population forms local majority only in a very few villages. In most cases they are local minorities in their own settlements as well. Furthermore this dispersed structure means that areas of compact settlement of minorities – except the Slovenes – do not really exist in Hungary, although some minorities are indeed concentrated in borderlands adhering to their respective kin-states. As a consequence of social and economic trends inherent mostly in the Communist era (industrialization, urbanization) and the contemporary migration processes minority communities seem to be most prominent in Budapest and other big cities. Several groups of minorities live very close to the border of their kin-states (Croats, Serbs, Slovaks, Slovenes, and Serbs), but their villages do not form contiguous regions and only limited proportions of certain communities live there. (See more on ethnic structure of Hungary: Appendices, Table 1)

Originally these communities were typical agrarian, sometimes containing also industrial workers but lacking enough representatives of national intelligentsia which would have helped them to preserve and hopefully develop their own identities and ethnic characteristics.

The above mentioned important factors – mostly voluntarily immigrations, pre-modern and different dialects, dispersed settlements, special social structures – could have caused a fall in their numbers, especially in 20th century. Indeed, because of these social conditions, political

occasions and tendencies, the Hungarian language and identity relatively easily gained ground among the minorities. Despite these processes of natural assimilation, the particular identities of minorities – namely, their ethno-cultural characteristics, including local dialects, traditions etc. have sometimes led to developing special double self-identity that consists of affection and loyalty to both the Hungarian nation and state, and to their kin-states as well). These difficult trends resulted in the decreased number of persons belonging to minority groups that had occurred, in particular, throughout the 20th century; this can be seen by the results of the successive censuses, also by the differences between estimation of members of minorities provided by the official census data and those of minority organisations.

I.1.2 Moldova

The Republic of Moldova was a part of the Principality of Moldavia starting from the 14th century and until 1812, when it was ceded to the Russian Empire following one of the many Russian-Turkish wars. The cultural heritage of the Principality of Moldavia stands at the core of Moldovan identity and of the official state ideology of the Republic of Moldova.

With the notable exception of Transnistria, the territory of today's Republic of Moldova belonged to the historical region of Bessarabia constituting, from the 14th century and until 1812, the Vlachian (proto-Romanian) Principality of Moldavia. Moldavia was a medieval principality on the Lower Danube River, which along with Wallachia formed the basis for the modern Romanian State. Its name originates from the Moldova River. The principality in its greatest extent stretched from Transylvania in the west to the Dniester River in the east, but had its nucleus in the northwestern part, the Tara de Sus ("Upper Land"), which later became known as Bukovina. This area included City of Suceava, the capital of the principality during 1359-1565. Iasi was the capital from 1565 and until union with Romania in 1859.

The territory of Moldavia often was a transit or war zone during conflicts between the Ottomans, Crimean Tatars, and Russians. In 1774 the territory became a Russian protectorship while remaining formally a vassal of the Ottoman Empire.

According to the Treaty of Bucharest of May 28, 1812 that concluded the Russian-Turkish War (1806-1812), the Ottoman Empire ceded the eastern half of the Principality of Moldavia to the Russian Empire. That region was then called Bessarabia. Prior to this year, the name was used only for approximately its southern one quarter, which was already under direct Ottoman control ever since 1484. At the end of the Crimean War, in 1856, by the Treaty of Paris, two districts of southern Bessarabia were returned to Moldavia, and Russia lost its access to the Danube River. Many localities, including Town of Chisinau (Kishinev), now fell in the border area. In 1859, Moldavia and Wallachia united as the Kingdom of Romania and in 1866, acquired the Southern part of Bessarabia. The Romanian War of Independence was fought in 1877-1878, with the help of the Russian allies. Although the treaty of alliance between Romania and Russia specified that Russia would respect the territorial integrity of Romania and not claim any part of Romania at the end of the war, by the Treaty of Berlin, the Southern part of Bessarabia again came under the control of Russia.

Romanian nationalist movement emerged in Bessarabia after the Russian Revolution of 1917. In the chaos brought by the Russian revolution, a National Council (Sfatul Tarii) was established in Bessarabia, with 120 members elected from Bessarabia and 10 elected from Transnistria (the left bank of the River Dniester, inhabited by ethnic Moldavians/Romanians). The new body declared the independence of the Republic of Moldova on December 2, 1917. On the request of the new Moldovan administration, on December 13, Romanian troops entered Bessarabia. On March 27,

1918 there was a vote for the unification with Romania. The unification was not recognised by the Soviet government, which claimed the area as the Bessarabian Soviet Socialist Republic. After the creation of the Soviet Union in December 1922, the Soviet government moved in 1924 to establish the Moldavian Autonomous Oblast on the lands to the east of the Dniester River in the Ukrainian SSR. The capital of the oblast was Balta, situated in present-day Ukraine. Seven months later, the oblast was upgraded to the Moldavian Autonomous Soviet Socialist Republic (Moldavian ASSR), even though its population was only 30% ethnic Romanians. The capital remained at Balta until 1929, when it was moved to Tiraspol.

Formerly ruled by Romania as part of the Principality of Moldavia, Eastern Moldova was occupied by the Soviet Union (with consent from the Nazi Germany) in 1940, after receiving an ultimatum from the USSR, and as a consequence of a secret protocol attached to the 1939 Nazi-Soviet Pact. On 2 August 1940, the Soviet government created the Moldavian Soviet Socialist Republic (Moldavian SSR) with its capital at Chisinau (Kishinev), by joining most of Eastern Moldavia (known as Bessarabia during its occupation by the Russian Empire) with a portion of the Moldavian ASSR (the rest was assigned to the Ukrainian SSR). In creating the Moldovan SSR, Eastern Moldavia (Bessarabia) was once again divided, thus severely undermining its historical and economic integrity. Several southern regions and access points to the Black Sea through the mouth of the Danube River (the City of Izmail) and Dniester (Nistru) estuary (the city of Bilhorod-Dnistrov's'kyi) were ceded to Ukraine, leaving the Moldavian SSR landlocked.

In 1947 Bessarabia, northern Bukovina, and Transnistria were incorporated as the Moldavian SSR into the Soviet Union, and the previous Soviet administrative divisions and Russian place names were reinstated. The territory remained part of the USSR after WWII as the Moldavian Soviet Socialist Republic, and the state imposed a harsh denationalization policy to the native Romanian population. Several social and economic groups were targeted to be murdered, imprisoned, and deported to Siberia due to their economic situation, political views, or ties to the former regime. Secret police struck at nationalist groups; and ethnic Russians and the other nationalities were encouraged to immigrate to the Moldavian SSR, especially to Transnistria.

Similarly to other countries, national minorities in the Republic of Moldova represent a part of society. The collapse of former communist system at the end of 80s brought important changes to minorities' issue, highlighting it as the one of the most actual. In the Republic of Moldova, the minorities' issue was addressed during the first meetings of the National Revival Movement, which claimed for more rights and freedoms for the majority of population, including the right to self-determination, to speak their mother-tongue language, to study national history, etc. That led to dramatic changes of cultural, political, economic, social situation of the majority of population, and to the change of the status quo of other ethnic groups. However, it is worth to note that an important part of the problems linked to minorities' issues, in reality, represents a conglomerate of conflicting interests of different social-political and economic lobby groups that try to impose some state policies on specific issues and to have some benefits.

Traditionally, different ethnic groups have been living on the territory of Moldova for centuries. The most numerous according to the census of 1989 were: Ukrainians -13, 8%, Russians -13%, Gagauzians -3,5%, Bulgarians -2,0%, Jews -1,5% and the others (See Appendices, Table 2). According to the official data, over 12000 gypsies were living in the Republic of Moldova. According to the same census data, 64, 5% of the population were represented by Moldovans, while ethnic minorities constituted 35, 5% of the population.

The most recent census (2004) that does not include the Transnistrian region of Moldova, shows that the majority of population on the right bank of the Nistru River (75,8%) is constituted of Moldovans, while 24,2% – are representatives of national minorities. Among them Ukrainians constitute 8,4%, Russians – 5,9%, Gagauzians – 4,4%, Romanians – 2,2%, Bulgarians – 1,9%

and the others – 1% of the whole population (See Appendices, Table 3). The census in Transnistria was organized by non-recognized Transnistrian authorities in 2005, – roughly at the same time as Moldova held its own census, which Transnistria refused to participate in. Results from that census reveal that the population of Transnistria is composed of roughly equal numbers of Moldovans (31.9%), Russians (30.4%) and Ukrainians (28.8%) and much smaller minorities of Poles, Byelorussians and Bulgarians (See Appendices, Table 4).

Though we lack officially provided data on the total population of Moldova and its ethnic composition, still the censuses on both banks of Dniester reveal that the number of ethnic minorities representatives (Ukrainians, Russians, Bulgarians) has decreased

Moldovan citizens of Ukrainian ethnic origin form the most numerous ethnic minority living all over the country. A part of them are descendants of the ancient Slavs who had inhabited the territory between the Prut and Dniester since the VI century A.D. The other part consists of the descendants of the immigrants who arrived in Moldova from the "continental" Ukraine at different times.

Ethnic Russians are the descendants of Russian peasants who settled in Bassarabia in the 19-th and early 20-th centuries. Many Russians also settled here during the Soviet Union. Bulgarians and Christian Turkish people – Gagauzians – moved from the Balkan area to Bassarabia in the years following the Russian annexation of 1812. The Gagauz people conceived their statehood as the only way to cultural autonomy and the Gagauz Ery – autonomous Gagauz Territory as a component part of Moldova was proclaimed in 1995.

Unfortunately, the census implemented in 2004 in the Republic of Moldova was an incomplete one, even though a separate census was realized in 2005 for the uncovered population from the eastern part of Moldova. The monitoring of the census process in both cases reveals political manipulations, despite the fact that the government on the right side of the Nistru River was established via a democratic procedure, while authorities on the left bank are illegitimate and supported from the outside.

The following reasons show that the census data do not reflect the existing reality in the Republic of Moldova:

Some of the operators on the right side of the Nistru River have intimidated the population. Not all of them even speak the language of the state they were representing, but that was not an impediment for the interviewed persons to pretend that their origin and native language or just their mother-tongue was Romanian. People interviewed were suggested that as long as they lived in Moldova their origin and language was Moldovan. A different way of intimidation used for those who declared themselves Romanians was the “leakage of the given information” in the neighbourhood, where people have different views. The sternness of the problem lays in the fact that starting with 1989 the Romanian language and history phenomenon is constantly used as manipulations in the harsh petty political fights, even though the process of returning of the majority ethnic population to the usage of their own language and history is a right, according to the international law, and does not breach or violate the national minority rights, but on the opposite, provides similar rights for national minorities if managed properly.

On the left side of the Nistru River the aim of the whole procedure was to minimize the number of population of Moldovan/Romanian origin, which before 1990 was 40%, and thus legitimising the ethnical purge that actually took place there. Being essentially motivated politically, the census results have been used to prove the Russian Federation actual ownership of the respective territory, populated by large number of Russians and Ukrainians. The implication of the external

factor was legalized by opening in 1993 of an office of the Russian Federation State Duma deputies in Tiraspol. This deed violates international law, as well as the legal acts signed by their own country, and promotes acquisition of Russian citizenship by residents of the Transnistrian region – pursuing the same policy as in South Osetia and Abkhazia. (Actually, Tiraspol leaders, and not only them, keep Russian citizenship since 1990, i.e., dating from still soviet era).

I.1.3 Romania

The medieval history of the regions making up the present-day Romania relates to the fate of the principalities east, south and west of the Carpathians. Walachia (the southern part of present Romania) was an independent state, gradually occupied by the Ottoman Empire; Moldova (the eastern part) was in the same situation. Transylvania (in the west) was under Hungarian rule (autonomous principality between the second part of the XVIth and the second part of XVIIth centuries, excepting Banat, the south-western part of Transylvania, was occupied by the Ottoman Empire during this period as well), and later became part of the Habsburg Empire (Austria-Hungary from the second part of the XIXth century). Dobrogea (the Black Sea coast) was part of Bulgaria, then part of the Ottoman Empire.

Walachia and Moldova united in 1859 and became an independent state with the name of Romania after the 1877-1878 Russian-Ottoman war. During the same period, Dobrogea became part of Romania (losing the eastern part of Moldova — now Republic of Moldova — to Russia). Transylvania (with Banat) became part of Romania after the First World War (the northern part was returned to Hungary between 1940-1944, and at the same time, Romania lost other parts of its territory established by peace treaties in 1940 in the favour of the Soviet Union and Bulgaria).

Resulting mostly from all these historical perturbances, there are now **twenty** officially recognized minorities in Romania – Albanians, Armenians, Bulgarians, Czechs, Croats, Jews, Germans, Greeks, Italians, Macedonians, Hungarians, Poles, Roma, Lipovans, Ruthenians, Serbs, Slovaks, Tatars, Turks and Ukrainians – comprising over 10% of the population according to the 2002 census (See more: Appendices, Table 5). Historical events determining their development have a clear-cut regional dimension.

- The Slav communities appear on the territory of contemporary Romania very early (VIth century).
- Other ethnic groups arrived in present-day Romania by migration (Hungarians in the Xth century, Roma in the XIIIth century), others came as colonizers (Germans in the XIIth and XVIIIth centuries). The whole region of Banat was colonized in the XVIIIth century by very different ethnic communities, such as Serbs, Ukrainians, Bulgarians, etc. and due to Ottoman rule, Turks settled in the southern part of contemporary Romania as early as the mid-XIIIth century). Others arrived for economic reasons (Jews, Greeks, Armenians in several waves) or due to political persecution (Jews in several waves, Albanians in the XIXth century, Armenians at the beginning of the XXth century, Greeks in the middle the XXth century).

The Holocaust of the Second World War decimated the Jewish community, especially in the northern part of Transylvania (under Nazi-allied Hungarian rule at the time). After 1940, Romania expelled essential part of its Bulgarian community (enforcing an exchange of population between Romania and Bulgaria), and many Germans were deported to the Soviet Union for forced labour after WWII. During the communist period, more precisely under the dictatorship of Nicolae Ceaușescu (1965-1989), Jews and Germans left Romania to Israel and the Federal Republic of Germany (they were practically „sold” per capita to these states). The Soviet type regime, established after WWII, destroyed the traditional rural life by the

collectivisation. The industrialisation changed the ethnic composition of the cities because the policy of the communist regime was to create a homogeneous population.

The situation of minorities has changed for better only after the collapse of former totalitarian regime and especially after Romania adopted a firm strategic course for European and Euro-Atlantic integration. This aim would be impossible to achieve without ensuring minority friendly policy, based on developing appropriate national legislative base, also ensuring the full observance of Romania's international obligations in this respect, and fulfilling the Copenhagen criteria for the EU accession.

I.1.4. Ukraine

The widely spread stereotype of Ukraine abroad has it as an Orthodox East-Slavic (or even Russian speaking) borderland, some kind of a younger twin-sister to Russia. The confusion had appeared long ago and aggravated due to the imperial ideology. The Ukrainian independence deprived Russia of the mythology based on the notion of "Ancient Rus". The Romanians had no claims to Italy because of their Roman legacy. Unlike them, Russia used to identify herself with Old Rus' with a very specific nostalgia to Ukraine. The Millennium of Rus' Christianity was celebrated in Moscow though this town appeared in late 12th and became a Mongol client state capital in the 14th century.

Poland, Russia, the Ottomans and Austria-Hungary could regard Ukraine as a borderland. The native meaning of the name is close to the word Land ("kray, Ukraina, Vkraina"). It was a part of Indo-European home and geopolitical World Island. The Iranian and Turkic-speaking nomads on the Northern Black Sea shore made a Hinterland for Greek cities, Hellenistic realms, Roman, and Byzantine garrisons. From their initial cradle between the Dnipro and Carpathians the Slavic tribes migrated to the Balkans, Central Europe and to the North-East in early Middle Age. They were gradually intermarried and assimilated with local Baltic, Germanic, Ugric, and other populations.

A supposed religious homogeneity is another myth. Rus' had been Christianized in 988, long before the Church schism. The Byzantine and Latin rites were coexisting as Greek, Latin and Slavonic languages. The Dominican and Franciscan friars had rooted here soon after their first steps in early 13th while Lutherans, Reformat-Calvinists, and Counter-reformat Jesuits arrived in mid-16th century. Since late 16th century the Uniate, now Greek-Catholic Church, gradually deserved its reputation of a devoted partisan of Ukrainian national identity. All branches of Christianity along with Judaism, Islam, a few of Buddhists, New Eastern rites and (unfortunately) new Pagans are represented here.

The Rus' dynasty derived from Scandinavia, and after the feudal disintegration the country for centuries was developing within the native realm of Galicia-Volhynia, the tolerant Grand Duchy of Lithuania, Kingdoms of Poland and Hungary, Ottoman-dependent Moldova, Crimean Khanate and Genoa's possessions. After a series of turbulent peasant rebellions, the Cossack autonomy had been brutally suppressed by Russia. It coincided in time with the cruel subjugation of the Crimea, Georgia, Poland and other countries. Western and Trans-Carpathian Ukraine shared the destiny of the Habsburg Monarchy and her successor states. The National Revolutions in 1917-21 failed.

By the early 20th century Ukraine was a typical stateless nation of East-Central Europe quite close by all basic parameters to the rest of the region. The country was inhabited predominantly by Ukrainians with some minorities intermingled or forming clearly shaped enclaves. The

industrial (mining, metallurgy, and heavy machine-building) East and partly South since late 19th century had got many newcomers from Russia. On the Dnipro right bank lived numerous Poles, and such cities as Lviv (Lwow, Lemberg, Leopoldis) had mostly Polish population amidst Ukrainian countryside. Along the Belarus' border the people identified themselves as locals ("tuteyshnyje").

The Jews lived in the Northern Black Sea shore cities since Antiquity. In the 9th century, the Turkic Khazars adopted Judaism as their Khanate official religion. Several thousands of Karaims now are their remote descendants. When the Catholic kings expelled the Muslims from Spain in the 15th century, the Jews escaped to the Ottoman Empire or Polish-Lithuanian Commonwealth that included Ukraine and Belarus'. The Jewish communities and small towns ("kagals, staetls") formed a layer between the ruling Polish, Russian or Hungarian nobility and Ukrainian peasantry. They had no right to land so used to earn on living as craftsmen, artisans, innkeepers and moneylenders.

As both exploiters and exploited, they sometimes became victims of rebellions and uprising though could save their lives by conversion to Christianity. In the 20th century many pogroms were provoked by the imperial and occupant authorities. The short-lived Ukrainian national governments attempted to prevent these atrocities yet proved to be too weak and helpless. The Soviets and other victorious enemies did their best to blame defeated and silenced Ukrainians in Anti-Semitism. In fact some criminals really took part in these persecutions while many other natives saved thousands of Jews risking their own lives, especially under the Nazi regime, and thus deserved grateful recognition.

The Germanic Goths had their proto-state in what would to become Ukraine as early as the 2nd till 4th century, later destroyed by the Huns from Asia. In the Middle Age the German townspeople were influential everywhere in East-Central Europe. The Ukraine's capital had the autonomy on the Magdeburg law. The German capitalists, engineers, physicians, artists, workers contributed to the city life while farmers participated in putting to cultivation fertile lands since the 18th century, and established a number of German villages. Some cities had Lutheran streets. The tradition had been suppressed in 1930s and finally broken by the Soviet persecutions and deportations during the Second World War.

The Czech 19th century colonization in Volhynia and other places, the capital city included, was based on a long tradition of mutual interest. The Romantic poetry and art of the Slavic National Rebirth were inspired by the folklore, especially old legends of the Hussite and Cossack heroes. The Czech entrepreneurs, musicians, sportsmen were active and popular in Ukraine. During the First World War the Czechoslovak Legion of volunteers had been formed in Ukraine, and in the Second War the Czechoslovak brigade took part in its liberation from the German occupation. Now the prospects for cooperation are based on the interest in raw-materials, markets, and labour resources. The Greeks had several traditional places of settlement in Ukraine (e.g. the town of Nizhyn). Some others descend from those removed by the Russians from the Crimea at late 18th century to undermine and make more easy annexation of the Khanate. The Greeks in and around Mariupol on the Azov Sea Shore speak their own dialect and call themselves Romans ("romyi"), meaning East Rome, that is Byzantium. Many Greeks and Bulgarians from the Ottoman Empire escaped to Ukraine. The war for national liberation of Greece at early 19th century was prepared by a group of conspirators from Odessa. Some towns in the Danube estuary till now have Bulgarian names and population.

The big cities as anywhere tend to be cosmopolitan. The Soviet rule during its first decade declared Ukrainian national revival and created Bulgarian, Czech, German, Greek, Jewish, Polish, Rumanian, Russian and other territorial communities with cultural autonomy. The Great

Terror in 1930s put an end to these dreams, executed intellectuals, and destroyed peasantry by the man-made famine aimed at preventing any resistance. Soviet Ukraine had lost one-third of her population. The Kremlin consequent policy suppressed any conspicuous identity in order to create a notorious and faceless utopia of the so-called “Soviet people” deprived of all ethnic, national, and, implicitly, European identity.

The cruel ethnic cleansing often perpetrated by the occupants, frontier rectifications, exchange of populations and mass deportations under the pretext of fighting nationalist guerrilla during the Communist totalitarianism changed the picture. The Polish army removed Ukrainian population (Action Wisla) from the eastern districts (Peremysl’- now Polish Przemysl, Kholm-Chelm, Pidliashshia, Lemko areas) to the Baltic coast and elsewhere. The Poles from Galicia were sent by Soviets to Asia or settled in Silesia, from where Germans had been expelled. As a result, the Polish minority in Ukraine lives now predominantly not along the state border yet in East Volhynia (Zhytomyr).

The Tatars is the most widely spread yet wrong name for the Crimean Tatars, since the latter have used to call themselves simply Crimeans (“Krymlar”). This is the second native people of Ukraine having no homeland elsewhere. In the Crimean Khanate they were ruling although not constituting a majority. Many Ukrainians captured as slaves used to stay there after liberation. Both peoples sometimes were fighting yet more often lived as neighbours. Under the Russian rule the Crimean Tatars were forced to emigrate, and now they are much more numerous in Turkey. The Soviet persecutions culminated in the forcible deportation of Crimean Tartars (as well as Armenians, Bulgarians, Greeks) in 1944 to Central Asia. In a few months during and after deportation, Crimean Tatars have lost almost half of their people.

Since then hundreds of thousands of Soviet officers and other colonists from everywhere came to the Crimea. They hindered repatriation when the Crimean Tatars had finally got a permission to return. The Russian Federation has neither economic tie nor land communication with the peninsula, so on her initiative this burden in 1954 for purely economic reasons was given forever to Ukraine, – of course, never anticipating the prospect of the Soviet Union disintegration. On the eve of its collapse local Communist functionaries supported by Moscow hardliners initiated an autonomous status of the Crimea. Crimean Tatars were the first to protest against such an autonomy, based not on the native people’s rights but on their continued discrimination.

I.2 Political context

Regional post-communism realities drastically changed minority situations in all four countries, revealing, however, the specificity of each of them. For the post-Soviet Moldova and Ukraine, as well as for other former Soviet republics, one of the main issues faced by the newly emerged independent states has been a sudden transformation of the status of Russians, used to their dominant position (in both Tsarist and Soviet multinational empires) into just one of, although often the biggest, national minorities within the countries whose majority populations (“titular ethnoses”) realised their right for “external” (political) self-determination. This cultural and political shock, experienced by sizeable segments of the countries’ residents, has often been aggravated by sometimes aggressive stance by the Russian Federation, declaring its hot support for the “compatriots” abroad a priority of foreign policy. The forms of this virtual support were in fact nearing the direct intervention into the internal affairs of sovereign states, in particular, by providing assistance and encouraging separatist movements in late 80s – early 90s in both Moldova and Ukraine. While the immediate dangers brought about by the secessionist trends in Gagauzia of the Republic of Moldova and Crimea of Ukraine have been averted, the artificially created crisis in the relations between the central Moldova and its easternmost Transnistrian region resulted in the protracted, not yet settled “frozen conflict”.

For Hungary and Romania, minority-related issues have both internal and external dimensions, meaning that these west-oriented Central European countries should have reversed their previous assimilative approaches towards their own minorities and at the same time, realise the intention to develop closer links with and ensure better protection of the kin-minorities living in the neighbouring states. In this respect, an issue of the majority/minority relations had extended to the necessity of establishing and strengthening good neighbourly relations between “kin-States” and “host-States”. Taking into account historically accumulated grievances, mistrust and suspicions pertaining to both ordinary people and public officials, this was not at all an easy task. These concerns are especially prominent in the case of Hungary whose all mainstream political parties, while pursuing Western integration, spared no effort to develop the most benign policies towards ethnic minorities in order to substantiate and justify preoccupation with ethnic Hungarians – citizens of other countries. These intermingled concerns underlined the developments related to elaborating and adopting in June 2001 of the so-called “Status Law”.¹ That move evoked rather sharp reactions from the neighbouring Slovakia and Romania, and compelled the European Commission “Democracy through Law” (Venice Commission) to conduct a special study, defining the most commendable relations between kin-States, host-states and kin-minorities.²

In general, the problem of creating more or less consolidated regional space and establishing close neighbourly relations between the four countries are complicated not only by their totalitarian past, when Central and Eastern Europe was separated from the West by the variations of Iron Curtain, but also by a newly aroused problem of new frontiers, dividing Europe along the external borders of the European Union.

A more detailed information on the political context of minority policies in each of the four countries is provided below.

I.2.1 Hungary

After the transition in 1989-1990, the foreign policy of the new, democratic Republic of Hungary was built on three main fundamental principles. These were the integration to the Euro-Atlantic structures, the protection of the Hungarian minorities living outside the borders of Hungary,³ and last but not least, maintaining good relationship with neighbouring states. Synchronising the implementation of the latter two was not always obvious, especially in early nineties. However, in the middle of the decade, the so-called basic agreements regulating – among many other issues – the rights of the Hungarian minorities in the given countries were signed with Ukraine (1993), Slovakia (1995), and Romania (1995).⁴

¹ More precisely, *Act on Hungarians Living in Neighbouring Countries*, passed by the Hungarian parliament in 2001 with 92 per cent voting in favour.

² EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION) REPORT ON THE PREFERENTIAL TREATMENT OF NATIONAL MINORITIES BY THEIR KIN-STATE adopted by the Venice Commission at its 48th Plenary Meeting, (Venice, 19-20 October 2001).

³ Even the amendments to the Constitution introduced in 1989 showed that Hungary bears responsibility for the future of Hungarian living outside the borders of the country. In: SZABÓ Vilmos: Hungary’s neighbourhood policy and the situation of the Hungarian minorities. In: *Foreign Policy Review*. Volume 2. No. 2. (2003) 3. p.

⁴ There are also a rather small number of Hungarians living in Austria, Slovenia, Croatia, but in these countries there were never any significant problems regarding the rights of the Hungarian minorities. The situation of the Hungarian community living in Serbia, in Vojvodina is rather different. Since the disintegration of Yugoslavia the situation of the Hungarian minority in Vojvodina is constantly a source of problems between Hungary and Serbia. From time to time, some extreme ideas were enunciated from both sides (for example by Istvan Csurka, or by Voyislav Sheshely), however, in general the tensions seem to slowly ease – partly due to the fact, that the rate of ethnic Hungarians compared to the Serbian majority in the region is constantly decreasing.

This above mentioned 'Holy Trinity' essentially influenced Hungarian foreign policy until the country's accession to the NATO in 1999 and to the European Union in 2004.

Hungary in the EU and the NATO. The first of the original foreign policy priorities was achieved. The new, transformed objective becomes that of pursuing the country's interests in the EU and NATO structures as effectively as possible. According to experts' analyses⁵, Hungary, trying to use its limited resources, is performing quite well in the European Union. This applies to delegating Hungarian officials to the EU institutions, to Hungary's participation in the decision-making, and to acquiring funds and financial resources from the Union.

The case of Hungary's performance in the NATO is quite different. Since its accession, Hungary is constantly a subject of criticism, mainly due to the indeed limited defence budget. Instead of the prescribed 2% of the GDP to be spent for defence purposes, the Hungarian defence expenditure was only 1,28% in 2006. Moreover, in the recent years, the country was unfortunately quite behind in fulfilling its various NATO commitments, for example in regard to reformation of the armed forces, equipment modernisation etc.⁶ However, in **parallel** with the generally changing role of the NATO the Hungarian participation is perceived to be more and more valuable. Though the defense budget is still much under the expected level, the 'output' element, e.g. the mission engagement of the Hungarian Defense Forces has been on the rise since 2006: the Dutch PRT was taken over in Afghanistan, more than 700 Hungarian troops are serving in various NATO missions, etc.

Concerning the trans-Atlantic relations, the Hungarian professional and academic community is currently a kind of divided on such a matter as whether the country shall pursue a more Atlanticist or a more pro-European foreign and security policy, or a hybrid solution between the two. In the nineties, the Atlanticist tendency focusing on the NATO accession was more determining, especially during the civil and interstate wars in former Yugoslavia. That time, Washington was considered to be the most important strategic ally of Hungary, US military base was opened at Taszár, and the country's foreign policy was basically in line with the US interests.

However, when the large-scale armed conflicts in the Balkans were settled, Hungary joined the NATO, and even the EU-accession became a reality, obviously more attention started to be paid to the pro-European option. The importance of the change has become especially clear when the Bush-administration started to pursue an unusually unilateral foreign and security policy. This resulted several times in situations rather uncomfortable for Hungary from both internal and external perspectives, while Budapest tried to balance between the interests of the US and the EU.

Nowadays, Hungary's ties to the United States are definitely close – as indicated also by the recent visit of President Bush. Some ambivalent elements are still present, for example in questions related to Hungary's relationship with Russia, and in energy policy issues, but generally speaking the relations are improving. Even the introduction of a visa free entry regime to the United States seems to be reality now.

Nationalities Policy Affairs. The prospects of European and Euro-Atlantic integration becoming a reality put the issue of minority protection in Hungary and other CEE countries into a different context. In Slovakia, before and after achieving EU membership and thus being subjected to the

⁵ 'Two Years After The EU Accession: Experiences Of The Ten New Member States' Lecture of Ferenc Gazdag, held at the Teleki László Institute Centre for Foreign Policy Studies on 20th September, 2006. Under publication.

⁶ A concise and truthful analysis of Hungary's performance in the NATO was published (though only in Hungarian): *NATO-csatlakozás és a tagság két éve*. In: *A honvédelem négy éve. 1998-2002*. Budapest, 2002, Zrínyi Kiadó. pp. 26-39.

EU-level regulations on minority policy, an effective protection for Hungarians living there is a matter of fact. Besides, the hard-line nationalism mostly disappeared from the political scene in both countries, and the Party of the Hungarian Coalition was a constant member of the governing coalitions in Bratislava, until the last elections. Since the nationalist Jan Slota has become member of the Fico-government, tensions are unfortunately increasing again. Relations with Romania that also achieved the EU membership have been constantly improving, and hopefully, the Hungarian minority living in Romania will also enjoy the advantages of Bucharest's January 1, 2007 accession.⁷

The third of the initial foreign policy objectives is also transformed due to the new regional situation. Connected to the issue of minority protection, it became a matter of essential interest for Hungary to support the EU accession of Romania, and to assist the democratisation of Serbia as well.⁸

Regional policy and bilateral relations. Concerning the regional foreign policy ambitions of Hungary, there are three main geographical areas of importance for Budapest. The first one is the Balkans. Due to its geographic position, Hungary perceives the Balkans as its main area of expertise in the context of the EU foreign and security policy. Indeed, on the annual Ambassadorial Conference held in the Ministry of Foreign Affairs on 24-25th July 2006, it was agreed that Hungary would increase its diplomatic presence on the Balkans in terms of both financial resources and personnel.⁹ The second one is the Visegrad cooperation, while the third is the post-Soviet space, primarily Russia.

Hungary and the Visegrad cooperation. Besides the Balkans, the Visegrad region is also of special importance to Budapest. The cooperation between the four states – i.e. the Czech Republic, Slovakia, Poland and Hungary – has an impressive historical background going back to the 14th century. The current organisation was established in 1991 in order to support the European integration of the originally three, later on the four states. However, according to many expert opinions, as the original objective has already been achieved, the Visegrad cooperation is a bit of “looking for a job.” The differences in the guidelines of the member states' foreign policies seem to be stronger than the cohesive forces. Thus, the political cooperation between the four states is currently limited to a rather informal coordination of their foreign¹⁰ and cultural policies¹¹ on certain issues, but without any strategic visions or obligations. The Hungarian presidency between July 2005 and June 2006 intended to bring a change in this field by strengthening the cooperation between the V4 and increasing their role in the international politics.

However, the continued tense Hungarian-Slovak relations remains an issue of divergence inside the V4. Besides the “traditional” antipathy,¹² unfortunately still being present in some elements

⁷ Since the EU-membership of Romania the original hopes of having significantly less debates with Bucharest over minority policy issues seem to fade away, however, the intergovernmental relations are still good, and the tensions do not exceed a certain, moderate level (Hungarian team's remark).

⁸ For more detailed information on the nation policy of Hungary see http://www.kulugyminiszterium.hu/kum/en/bal/foreign_policy/nation_policy_affairs/

⁹ A detailed summary is available at: http://www.kulugyminiszterium.hu/kum/hu/bal/Aktualis/latogatasok_es_esemenyek/060724_nagykoveti_gyurcsany.htm

¹⁰ As a demonstrative example, see the agreement between the V4 countries and the Baltic states on improving the coordination among each other in order to lobby for the abolition of entry visas to the US. http://www.kulugyminiszterium.hu/kum/hu/bal/Aktualis/latogatasok_es_esemenyek/060922_v4_vizumogy.htm

¹¹ The International Visegrad Fund (established in 2000) is mainly dealing with various projects and grant programs encouraging and increasing the further cultural cooperation in the region.

¹² This is related partially to the historical context, e.g. to the Trianon peace treaty signed in 1920, which dismembered the historical Hungary, causing approx. 71% loss in territory and 63% in population. The memories of the ‘Trianon disaster’ are still vividly alive in certain elements of the Hungarian population. Since 1920 the issue of

of the Hungarian society towards Slovakia, there are two interrelated primary sources of the present problems. The first one is the composition of the current Slovak governing coalition – or, to be more precise, its Hungarian (and international) perception. The second one is the growing number of the anti-Hungarian atrocities in Slovakia,¹³ which in Hungary is seen to be strongly connected to the presence of Jan Slota's Slovak National Party (SNS) in the Bratislava government.

The relations with Russia. One of the main concrete issues of disagreement among the V4 countries is the relations with Russia. Of the four states, only Hungary maintains quite close ties with Russia, especially regarding the government of the incumbent Prime Minister Ferenc Gyurcsány. Besides the traditionally strong position of the Hungarian agricultural goods and chemical products on the Russian market, Budapest also pursues an energy policy which is in line with the intentions of the Gazprom rather than with the will of the other three Visegrad countries.¹⁴

After the Russian-Ukrainian “gas price war” in January 2006, Hungary came to a conclusion which irritated the three other member states, namely, that Russia has been a reliable supplier for Hungary's energy needs. Consequently, only the transit routes need to be diversified, that is why Budapest is basically in favour of the Russian pipeline plans trying to decrease the share of Ukraine in the transit of the Russian gas towards the West. Following the visit of Putin in February 2006, it was agreed that Budapest is going to let Gazprom build a huge storage in the country, moreover, Hungary will probably be a regional gas hub supporting Central Europe.¹⁵ The relatively frequent meetings between Vladimir Putin and Ferenc Gyurcsány are also indicators of the closer ties between the two countries.¹⁶ According to Russian opinions the calm, predictable and pragmatic foreign policy pursued by Budapest resulted in the intensification of the Russian-Hungarian relations.¹⁷ This pragmatism is connected with the intentions of Gyurcsány to have such a foreign policy which is capable of supporting Hungarian business interests abroad as well.¹⁸ However, these “special relations” between Hungary and Russia somewhat mar up not only interstate relations within the Visegrad group, but also the development of more harmonious regional cooperation between the four countries, participating in the project, the three of which – in line with recently developed common European Energy Security policy, wish to put the end to their overdependence on Russia's or Russia-controlled energy supplies and transportation routes.

Minority policy. According to the Act 77 of 1993 on the rights of national and ethnic minorities, the country officially acknowledges thirteen minorities after the transition. This linguistic differentiation between “national” and “ethnic” refers only to the existence or non-existence of a national kin-state, but it does not mean to include either political or legal differences in their positions. Most of the minorities has their own kin-state, namely the Bulgarian, Croatian, Greek, Polish, German, Armenian, Romanian, Serbian, Slovak, Slovene and Ukrainian communities. From these eleven countries six are neighbouring states. Several other factors affect the situation

the Hungarians living abroad is of primary importance not only for all Hungarian governments, but it is also an integral part of the modern Hungarian identity.

¹⁴ For more information see: DEÁK, András: Consolidating the EU's Eastern Policy. Is there a role for the Visegrad countries? In: Sarunas Liekis (ed.): *European Union and its New Neighborhood*. Vilnius. 2005. Mykolas Romeris University. pp. 98-127.

¹⁵ For more information see ‘Hungary to Become Biggest Energy Center in Europe, Putin Vows’ In: *Kommersant*. 1st March 2006. Available at: <http://www.kommersant.com/page.asp?id=653708>

¹⁶ Besides their two personal meetings taking place in February and September 2006, the two premiers had at least one telephone conversation as well. Gyurcsány called Putin after the issue of the American missile defense system to be built in Central Europe appeared again in the Russian press, in order to ensure his Russian partner that no missile launcher will be built on Hungarian soil. Interview with Hungarian official of the Ministry of Foreign Affairs. Budapest, September, 2006.

¹⁷ Russian expert Lyubov Shishelina is quoted by *Népszabadság Online* at: <http://nol.hu/cikk/417252/>

¹⁸ Announced during the Ambassadorial Conference.

of minorities and the conditions of policies towards them, just like objective historical, linguistic, geographical, statistical facts, and last but not least subjective elements of dominant forms of minority identities.¹⁹

As a member-state of the enlarged European Union, Hungary continues to pursue its minority policy in view of the main tasks which are to restrain, to stop and hopefully to turn back assimilative trends with the help of granting effective minority rights and developing extensive institutions of cultural autonomy. The minorities can get help from both the established minority self-governments and civic organisations and from the wider international surroundings in order to preserve and develop their identities. Relating to the latter, it should be mentioned that according to the latest census of 2001 immigration among the minorities is above the national average, so both the proportion and number of persons who were born abroad are very relevant in case of several communities. In 2001 the ratio of persons born abroad reached 55% for the Ruthenians, and nearly 50% for both the Romanians and Ukrainians.²⁰

Currently, the process of social and economic integration of minorities can be considered as mostly completed – except the largest community, the Gypsy (Roma). The social indicators of minorities are either on the same level as those concerning Hungarian majority, or are not far worse, sometimes even much better. From the several sociological research studies it has become obvious that the biggest minority, the Gypsy community, is facing numerous social problems (education, employment, health, standard of living, discrimination etc.), and not only problems of preservation of its identity. Moreover, the latest census pointed out that two-third of the estimated number of Gypsy community did not keep internal group solidarity, since they preferred to identify themselves as ethnic Hungarians. From the twelve other communities those minorities which were officially acknowledged during the Communist era (Croats, Germans, Romanians, Serbs, Slovaks, Slovenes) are in far better positions: they preserved relatively big number of members and established extended networks of different organisations, schools, and other kind of cultural institutions. Other six communities (Armenian, Bulgarian, Greek, Polish, Ruthenian, Ukrainian) seem to possess less opportunities, but they are much more affected by the immigration, and in general, are more mobile, well-educated, better employed and have more favourable age-structures. So for them, favourable prospects for preserving and developing their own ethno-cultural identities have also emerged.

I.2.2 Moldova

The political context of the adoption of the Declarations of Sovereignty (1990) and Independence of the Republic of Moldova (1991) gave the opportunity to secessionist radical forces to promote their plans for disintegration and political self-determination of the Gagauzian and Transnistrian regions of Moldova. The minorities' issue (theirs rights and freedoms, as well the nostalgia for the lost privileges) played an important role in this regard. According to some authors, the Plan of dissolution of Baltic States, Georgia and Moldova was designed in order to punish the former Soviet republics for their disobedience to Kremlin rule. Despite the fact that new Moldovan Government tried to promote democratic reforms and avoid the fragmentation of

¹⁹ SZARKA László: A közép-európai kisebbségek tipológiai besorolhatósága [Typological classification of Central-European minorities]. In: SISÁK Gábor (szerk.): *Nemzeti és etnikai kisebbségek Magyarországon a 20. század végén* [National and ethnic minorities living in Hungary at the end of 20th century]. Budapest, Osiris – MTA Kisebbségkutató Műhely, 2001. 30-40. p. SZARKA László: A közép-európai kisebbségek típusairól – adalékok a tipológiai besorolhatóság kérdéséhez [Types of Central-European minorities – contribution to the question of typological classification]. In: KÁNTOR Zoltán – MAJTÉNYI Balázs (szerk.): *Szöveggyűjtemény a nemzeti kisebbségekről* [Reader on national minorities]. Budapest, Rejtjel, 2005. 158-170. p.

²⁰ See TÓTH Ágnes – VÉKÁS János: Mit hoz a jövő? [What will the future bring?] *Kisebbségkutatás*, 2004/ 4. 543. p.

the society, only few states supported its policies, while Russian propaganda succeeded in influencing negatively the public opinion in Moldova and abroad.

The new Constitution, adopted in 1994, proved that Moldovan elites agreed to promote a moderate policy regarding other ethnic groups. Constitution and other laws adopted at this stage have provided equal rights for all citizens of Moldova. All minorities received the right to study their native languages, to develop their culture and tradition, while Russian language has been accepted as a “language of interethnic communication”.

Even though all Moldovan Governments have taken measures to ensure political stability and better relations with Russia, the latter has continued to support the secessionist movement in Eastern and Southern parts of Moldova. At the same time, the lack of democratic experience of ruling nomenclature and their political ambitions to keep the power have favoured and stimulated centrifugal forces from Tiraspol and Comrat towards the disintegration of the state. The regional elites have manipulated public opinion showing their concern for the minorities’ issues and the peril of “*Românization*” of Moldova. Due to the weak political parties system and the lack of consensus on what national interests should be and how they should be promoted, political parties of Moldova did not manage to take advantages of Moldova’s membership in international organizations to improve interethnic relations and to solve the Transnistrian issue. Starting from the middle of the 90s, slow democratic reforms, economic backlash, illegal migration, corruption and socio-political instability have created a negative image of Moldova abroad. The victory of Democratic Convention in 1998 Parliamentary elections proved that if necessary reforms would have been implemented, Moldova could have the chance to sign an Association agreement with the European Union. But because of internal political conflicts within the ruling Democratic Convention and the main political parties and the President Lucinski, the political and economic instability have opened the way for returning of the Communist party to power in 2001.

Due to the fact that an essential number of the members of ethnic minorities in Moldova are usually in favour of closer relations with Russia, a great part of the political parties from the Republic of Moldova use a Pro-Russian political message for the voters. To obtain more votes, political parties, especially of left-centre orientation, declare, as a rule, the necessity to develop closer relations with Russia. Very few parties announce the idea of joining the NATO as an important element of their political programmes.

Thus, as a rule, ethnic minorities from the Republic of Moldova give their votes to the parties that promote the idea of closer relations with Russia. This is the case of the Communist Party that gained the power in 2001 during the parliamentary elections and maintained it in 2005. We can see the same situation at the Baskan’s elections in Gagauz-Yeri in December 2006, when a pro-Russian candidate won the elections.

Though the new ruling elite had to keep the course towards democratisation, economic reforms, and promotion of European standards in Moldova, it took over 3 years to achieve political stability and legitimacy within the society. On the international stage, Moldova has been included into the European Neighbourhood Policy together with other neighbouring states from the Eastern Europe, and countries from the Middle East and North Africa. In spite of frequent cases of using minorities’ issue as a political tool for achieving support during the election, the ruling Communist party managed to promote a balanced policy of interethnic relations. The adoption of the National Concept on Interethnic relations in 2004 constitutes a bright example in that sense. It affirmed again that all ethnic groups have equal rights, and provide state support for developing their native languages and cultural heritage. At the same time, the Russian language was re-confirmed as a tool of interethnic communication, despite the interest of the majority of the population for the promotion of the official language of the state within the society.

EU and NATO enlargement' waves up to Moldovan borders represent a powerful factor of increasing Western interests for stability, democratic and economic development in the whole region. It provides Moldova with more chances to solve its domestic problems, to adopt and act in accordance with the international standards.

In comparison to the Romanian legislation, the Republic of Moldova legislation does not grant national minorities' representatives a certain number of parliamentary mandates or local council seats. They participate as the whole society does on the common lists of the political parties or electoral blocs stipulated in the law regarding the polls procedure on the Republic of Moldova territory. Since the Republic of Moldova's Declaration of Independence was adopted, no political party or any electoral bloc has been registered with the statute or programmes that would declare representation of national minorities at all levels of state powers. At the same time, the legislation does not stipulate for sanctions for electoral platforms that use the national minority charter. Thus, the number of mandates obtained by the national minority representatives at a central or local level not always can be directly related to their plenary implication in Moldovan social life, especially in the minority community life. This is due to the insufficient and biased promotion of public personalities and their activities by mass-media institutions. These institutions even after the Council of Europe intervention in 2003 continue to be controlled by the governing party, and the opposition remains weak and undeveloped. According to the NGO's law, national minorities are not allowed to advance any nominees for the general or local elections. They have the right as representatives of civil society to support a nominee or other candidates advanced by a political party or an electoral bloc.

At a legislative level, starting with the first parliament democratically elected in 1990, either a commission for the minority problems has been created (1990 – 1994), or this issue becomes a component of a larger commission with more attributions, but in the tenure the question of national minorities is always present.

At the executive level, the department for minority problems was created in 1990 at a ministry rank, but in 2005, as a result of the reforms undertaken by the government headed by Tarlev, department was reorganized in a bureau for minority problems. At the local level, there were commissions created in the framework of county council (I) or village council (II). Although these structures have been established to identify and find opportunities for solving national minority problems, these levers are often ineffective or even distorted.

In particular, the actions undertaken by the Bureau for National Minorities sometimes infringe the legislation in force. Although this structure was created to coordinate the activities connected to national minorities and their integration into Moldovan society under difficult conditions, not always just and fair for certain minorities, it uses the available opportunities in a different way. The most telling expressive example in this respect is the criteria used for distribution of the premises for offices of national minority NGOs; in fact, the latter enjoy this right according to their loyalty to the actual government. The same applies to the financial support obtained during the contests, or the attempt to distort the significance of the European Charter of regional languages (1992), trying to substitute the support for minority languages – weakened or endangered – by the exclusive rights provided for the Russian language, aiming at its transformation into the second state language of the Republic of Moldova. This endeavour failed due to active public protests, some fortunate circumstances, and some of the national minorities' NGOs that did not share such an approach.

I.2.3 Romania

After the abolition of Ceaușescu's dictatorship (December 1989), a new regime was installed, led by one of the former communist leaders, Ion Iliescu. The first democratic elections were held on

May 20, 1990. Reforms were delayed until after the second parliamentary elections in 1992, when Iliescu was elected president of Romania and his party gained the parliamentary majority. With Romania's membership in the Council of Europe, a slow pro-west modernisation began, increasing in scope and intensity with every new government since.

The evolution of minority public policies from the perspective of the (most sizeable) Hungarian minority includes several relevant moments that define and circumscribe this evolution. Although the first years of transition after 1989 were characterized by an ethno-nationalism that had become the main frame of reference for majority-minority relations²¹, at that time, the Hungarian community started a very strong civic activity in order to rebuild the minority educational system and cultural life, destroyed in the 1950-60's. 1993 brought a change in government due to the inclusion of nationalist and ultranationalist parties into the governing coalition; this resulted in a period of climax of inter-ethnic tensions. The strong western orientation of Romania and the end of PDSR's domination included the RMDSZ in late 1996 into the new governing coalition, thus leading to a complete change and a new prospect for Hungarian integration. The elections in 2000 did not change this positive trend, since RMDSZ remained the main parliamentary ally of the party in government²². Moreover, in spite of the fact that the 2004 parliamentary elections resulted in the victory of the previously oppositional parties (the Liberals and the Democrats), the RMDSZ was again invited to form the new coalition cabinet, gaining unprecedented political influence at national level.

Current public policies for Roma are one of the outcomes of the regime change after 1989 as well. It has to be noted that the communist regime produced some positive changes in the life of Roma in Romania. As a direct result of collectivisation, rural Roma communities became theoretically equal to non-Roma, as private property was turned into collective property and all had to share goods obtained together. This way, the Roma started to work in agriculture. At the same time, many Roma were employed in factories as unskilled labourers during the heavy industrialisation of much of the communist regime (in several waves). But in general, the negative aspects remained more influential: traditional ways of life (nomadic lifestyles) were prohibited, traditional trades became useless (due to industrialisation), and marginalisation remained widespread. The slow collapse of the economy (that started crystallising in the 1970's) affected first of all the Roma communities: they lost their jobs and many were taken to forced labour (for example, to Danube Canal). In addition, the Roma were accused of profiting from the collapse, because allegedly they controlled much of the black market.

After the changes in December 1989, the anger of different communities against Roma materialised in the form of mob violence. Between 1989 – 1994, pogroms took place in more than 30 villages and small cities, in which Roma persons were killed and their houses burnt down, yet without any legal consequences for the perpetrators. Police abuse was usual, rather unsurprisingly, as 100% of police officers interviewed as part of a study in 2005 saw Roma as a highly criminal category (followed by the poor, the uneducated, and drug addicts). Unemployment became very high (in numerous Roma communities, generally less than 5% are employed), with all the social consequences. It is for these reasons that Roma are seen as a social threat to the security of the state by governmental agencies, at the same time being targeted by the non-profit and humanitarian sector as communities at risk.

The issue of the Roma minority started to make the top of the political agenda with Romania's pre-accession negotiations, although it had been on the agenda before that as well. The history of

²¹ István Horváth: *Facilitating Conflict Transformation: Implementation of the Recommendations of the OSCE High Commissioner on National Minorities to Romania, 1993-2001*. Hamburg: CORE Working Paper 8, 2002. p. 22.

²² *Idem*.

the last 17 years shows a series of changes concerning the Roma situation. In this respect we can identify three different periods: the first period, between 1990 – 1997, is the so called “unstructured searching”, characterized by the interest in surveying living conditions of Roma, their cultural specificity and distinctness as a community within Romanian society in general. From the point of view of the Roma themselves, this phase implied building relations with non-Roma, local authorities/institutions through research and specific local projects. The second phase, between 1998 – 2001, can be defined as the “understanding of responsibilities” both by public institutions and civil society, and its end was marked by the elaboration of the National Strategy for the Improvement of the Roma Situation. The last one, after 2001 until today, is “the beginning of assuming responsibilities”, marked by the institutionalisation and implementation of the National Strategy as a response of the Romanian cabinet and Roma civil society to the very complex and difficult situation of Roma communities in Romania (see chapter 2).

For the small minorities, including Ukrainians and Ruthenians, the most important developments after the fall of communism are symbolized by their representation in parliament that debuted with the 1992 elections, as well as by the set-up of the Council of National Minorities in 1993. The relevance of the Council is primarily due to one of its prerogatives, i.e. the administration of financial support for the minority communities. In 1996 a new institution, the Department for the Protection of National Minorities, a governmental body with considerable influence on the policy on minority issues, was established.

As far as other minority communities are concerned, by the 1992 census the other two historical communities, living primarily in Transylvania, the Jews and Germans, formed an insignificant share of the overall population of Romania. Although the contributions of these communities have been more than significant in the cultural, as well as rural and urban landscape of the country, their presence in today’s political life is symbolic. Education in German language in several cities of Romania (Timișoara, Sibiu, Sighișoara, Cluj Napoca, Bucharest) is an attraction for mostly Romanian native speakers and caters, less to members of German minority. What strongly affected both communities, though, is the restoration of community and individual property rights over formerly nationalised goods in a transitional political environment.

One of the most relevant initiatives of the Romanian authorities in relations with Romanian communities abroad is comprised by the Romanian citizenship law. The law gave the possibility for the Romanians abroad to regain the Romanian citizenship lost due to territorial losses in 1940. In addition, law no. 150/1998 foresees the aid to be granted to Romanians ‘from everywhere’. Relations with the Republic of Moldova in the post-communist evolution can be characterised as coming through a series of tensed moments, but also by a series of facilities provided for the majority population of the Republic.

The Romanian government has tried to promote the responsibility for kin-minorities abroad through the establishment of good relations with neighbouring countries (Ukraine, former Yugoslavia, Macedonia, Albania) and the promotion of minority protection principles in bilateral treaties. The preoccupation by this issue resulted in the creation of an institutional body – the Department for Romanians ‘from everywhere’ and the establishment of benefits for kin-minority communities – especially in the field of education and culture.

This latter model is also the context in which the Romanian state has negotiated the status of Hungarians living on its territory and towards whom the Hungarian state has been professing similar attachments. Retrospectively speaking, Romanian-Hungarian interstate relations were marked by two topics: (1) the recognition of the western border of Romania and (2) the recognition of minority rights of the Hungarian community in Romania. The early 90s were marred by the Hungarian political elite’s “feelings of responsibility” towards Hungarians living outside Hungary and Romania’s ethno-nationalist attitude towards all non-Romanian

communities, primarily targeting the politically mobilised Hungarian community. Upon Romania's new membership in the Council of Europe (1993), finding a solution to the tense interstate relationship in the form of a bilateral treaty in the spirit of Balladur's European Stability Pact became a must²³. The head of the new 1994 Hungarian cabinet announced that the recognition of the state borders was to be included in the bilateral treaty under negotiations, thus solving one of the points of contention between the two states²⁴. The treaty was signed in September 1996 and marked the beginning of a normalised interstate relationship.

Another important moment in Romanian-Hungarian interstate relations was marked by the passing of the Hungarian status law in 2001. This law, comparable, although not as generous, to the Romanian law regarding ethnic Romanians living outside Romania, grants preferential treatment to ethnic Hungarians when in Hungary²⁵. Objections of the Romanian government focused on issues of sovereignty (targeting the authorities-to-be to issue the "Hungarian card"), and following the recommendations of the Venice Convention, the law was amended in 2003. Strengthened by both countries' memberships in NATO and the European Union, it is expected that interstate relations will positively evolve in the future.

From the first years of transition, when it became clear that the chosen option of the Romanian foreign policy is western orientation, the European Union also exerted considerable influence on the policy of minority protection in Romania. The Framework Convention for the Protection of National Minorities and especially the Copenhagen criteria, later the country reports have functioned as pressure instruments in the development and implementation of minority policies.

I.2.4 Ukraine

Today's Ukraine is a poly-ethnic state. Relevant information on the ethnic composition of contemporary Ukraine can be found in Appendices (Tables 6 and 7). Table 1 provides also comparison of the results of the two last censuses – those of 1989 and 2001, respectively, whereas Table 2 contains data on a few most poly-ethnic regions of Ukraine.

Although having quite impressive numeric majority of the "titular ethnos" (ethnic Ukrainians now constitute 77,8 % of the whole population), Ukraine at the same time is a home to over 130 other ethnicities widely differing in size, sense of common ethno-cultural identity, commitment to its preservation and development, political and social agenda etc. However, according to prominent Ukrainian sociologist and ethnologist Volodymyr Yevtukh, only a few of them have distinct common characteristics and ability to self-organise in such a way as to influence the state affairs and domestic – sometimes also foreign – policies. The situation is further complicated by a deep impact of Soviet past and its still survived legacy, affecting national consciousness of not only minorities, but a significant part of Russified ethnic Ukrainians as well. The latter are mostly Russophones rather than Ukrainophones and moreover, still do not feel or consider Ukraine as their own – and only – sovereign state.

In general, interethnic relations in Ukraine can be characterised as rather peaceful and tolerant. Long-standing tradition of peaceful co-existence in such poly-ethnic regions as, for example, Bukovyna where ethnic Ukrainians, Romanians, Russians, Poles, Jews etc. had lived together for centuries, did not interrupt when Ukraine became, after the demise of the USSR in 1991, a sovereign independent state. Moreover, preoccupied by the vital need to maintain tolerant and friendly interethnic relations in order to prevent violent conflicts – like those already raged on

²³ Horváth, *op. cit.*, p. 42.

²⁴ Horváth, *op. cit.*, p. 44.

²⁵ Law no. 150/1998, published in *Monitorul Oficial*, 16th July 1998.

http://www.mae.ro/poze_editare/LegeRP_2006.05.12.pdf accessed October 14th 2006.

the territories of a number of post-Soviet republics and in the Balkans, – Ukrainian government had undertaken a number of steps in this direction. One of them was applying the so-called “zero option” for all permanent residents thus providing for them Ukrainian citizenship, another was the adoption as early as in June 1992 of the Law on National Minorities – at that time, one of the first and most liberal one among all the countries of Central and Eastern Europe. The very weakness and vulnerability of the newly established state had perhaps prevented the central authorities from giving in to the temptation of curbing by means of military force rather assertive separatist trends that had then developed in Crimea, escaping in such a way those tragic scenarios that ended up in the so-called “frozen conflicts” on the territories of today’s Georgia, Moldova, and Azerbaijan.

However, positive aspects of minority policies development, as well as aspirations for ethno-cultural revival of all ethnic groups within independent Ukraine have sometimes clashed with other trends of a negative character. Among them, different forms of competition between minorities’ organisations for scarce resources, allocated from state budget, could be named, also internal fighting for the right to speak on behalf of a whole community. Certain – sometimes acute – rivalry between minority NGOs, associations and political parties, depending on their political preferences and alliances, traditionally become more prominent during the election campaigns. Nevertheless, the situation has yet never reached “a point of no return”, when unleashed violence and bloodshed result inevitably in the severe and protracted interethnic hostilities. However, alarming signals arrive once and again according to the data collected by sociological surveys, addressing majority-minorities and minority-minority relations. These data often evidence a rise of xenophobia, intolerance and widespread negative stereotypes based on the sense of “otherness” as applied not only to newly arrived migrants, but also to fellow citizens of Ukraine differing from the majority Slavic and Orthodox population.

I.3 Minorities: specific cases

Proceeding from the objectives of a given study, selection of particular minorities to be covered by this study has been based on the following criteria:

- Most sizable (or “important”) minorities
- Those “kin minorities” whose “kin states” are parties to this quadrilateral project
- Those minorities that might be perceived as a threat to national security

I.3.1 Hungary²⁶

I.3.1.1 Roma

In Hungary, all minority groups are recognised as national minorities except Roma, who are considered “ethnic minority”, and some new minority groups composed of Chinese, African and Arabic populations.

According to the Fact Sheet on Minorities in the Republic of Hungary, prepared by the International Centre for Democratic Transformation (Budapest, 2007, see also Appendix), the most sizable ethnic minority, numbering 48 438 persons, includes people defined as Romany, Gipsy, and Beas, who are living dispersed throughout the country. As in many other states of Central, Eastern and Southern Europe, members of their communities are often marginalised, have a much lower than average level of education, poor social status etc., thus needing stronger protection from both central and local state authorities. Indeed, due attention had been paid to

²⁶ Since the Hungarian experts – participants of the given project – did not provide information for section 3.1 of Chapter 1 (*Minorities: specific cases*), the case of Romas in Hungary has been selected and prepared using other informational sources (*Editors’ comment*).

different aspects of the Roma issues by the two specialised bodies, namely, the inter-ministerial committee on Roma issues and the Roma Council.

Recently, reorganisation of the governmental work aimed at the integration of the Roma has been undertaken. According to a decision of the Government, a new body named the Council of Roma Integration led by Peter Kiss, Minister for Social Affairs and Labour, replaced two earlier existing bodies. The mandate of the Council of Roma Integration includes expressing opinions on current issues, consultation rights, and the preparation of decision-making. The Council is composed of high-ranking government officials (e.g. Secretaries of State of the Ministry of Foreign Affairs, the Ministry of Finance, the Ministry of Justice and Law Enforcement, the Ministry of Agriculture and Rural Development, the Prime Minister's Office, and the Head of Department for National and Ethnic Minorities at the Prime Minister's Office) the President of the Roma National Self-government and representatives of the Roma community. The minority ombudsman and the Head of the Equal Treatment Authority are invited to all sessions of the Council.²⁷

The Council of Roma Integration held its statutory meeting in April, 2007. The Minister Peter Kiss presented there the National Action Plan of the 'Decade of Roma Inclusion' Programme and put forward a proposal concerning the scholarship programme for Roma students for the academic year 2007/2008. The members of the Council adopted the work schedule for 2007.

Important steps towards improving Roma situation have been taken by the Roma Education Fund²⁸ in cooperation with the Hungarian Government. In particular, a joint conference was organized on 2 April where Prime Minister Ferenc Gyurcsany expressed the government's commitment towards the elimination of the disadvantaged situation of the Roma. The Prime Minister pointed out that the first step in order to put to end the discrimination of the Roma must be made in the area of education. As an illustration of the government efforts in this key area, the Prime Minister referred to the recent amendment of the Act on Public Education which bans segregation, in other words, the separation of Roma children from their non-Roma fellows. Furthermore, the geographical districts of schools have been re-designed so that no schools can receive exclusively or mostly disadvantaged students from the next academic year.

The conference dealt with the following topics: how to find balance between the effectiveness of educational reforms and equal opportunities; good practices concerning the reduction of the number of Roma children sent to special schools; legislation in favour of the integration of the Roma. The Roma Education Fund launched a new series titled 'The improvement of Roma education'. It aims to examine the education reforms in the participating countries of the Decade of Roma Inclusion.²⁹

2007 is also marked by the promotion of ethnic Romas to high governmental position. In particular, 35 years old journalist Dávid Daróczi became a governmental spokesperson, whereas the newly elected ombudsman on minority and ethnic rights is a Roma sociologist Ernő Kállai.

²⁷ Selection of news on national and ethnic minorities in Hungary, December 2006 - January 2007. Office for National and Ethnic Minorities, Budapest, Hungary.

²⁸ The Roma Education Fund was established in December 2004 at an international donors conference within the framework of the Decade of Roma Inclusion. A total of approximately 34 million Euros was pledged for the period 2005-2015 from 8 donors (Canada, Greece, Ireland, Netherlands, Slovenia, Sweden, Switzerland and the UK), private foundations and multilateral agencies such as the Central European Bank and the World Bank. Approximately 8 million Euros were available in 2005. On 12 May 2005, the Roma Education Fund was registered as a Swiss Foundation and started operating with its office in Budapest.

²⁹ See: Selection of news on national and ethnic minorities in Hungary, March - May 2007. Department for National and Ethnic Minorities, Prime Minister's Office, Budapest, 7 June, 2007.

Also, Hungary has two Roma MPs, one in the European People's Party and one in the liberal faction.³⁰

Despite the above mentioned measures, Roma segregation in schools remains a serious problem still far from being resolved. Recently, minorities' ombudsman called on government to do more to tackle Roma segregation, in particular, by strengthening structures monitoring segregation in schools, and enforcing zero tolerance. Kallai also said the state must play a much bigger role in intervening to ensure that Roma students are not the victims of educational segregation. He stated that local governments are ill-equipped to deal with this type of problem. "We must break the vicious cycle that forces educational segregation from generation to generation," he said, adding that making students who have been discriminated against fit for the labour market would ensure that society did not have to look after them.³¹

I.3.2 The Republic of Moldova

I.3.2.1 Ukrainians

Formation and development of the Ukrainian ethnic culture in Moldova took place in difficult historical conditions. Ukrainians in Moldova (Bessarabia) always used to be there in a position of ethnic minority. Their aspiration to develop culture not always found due support of the ruling powers: at the beginning it was non-recognition by tsarism of the Ukrainian nation itself, including its language, national mentality and psychology, spiritual culture etc.; later on, Russification was followed by forced Rumanization.

The events of 1940 were positively accepted by the Ukrainians in Bessarabia. However, domination of the Russian and Moldovan languages in the official sphere and education and negligible attitude towards the Ukrainian language in Moldova during the Soviet period has fatally affected the condition and development of the Ukrainian ethnos, its language and culture. More and more Ukrainians were gradually losing their native language, using Russian or Moldovan not only in the sphere of official communication and education but also in everyday life and in the family. As academician Popovich noted, "Deprived of schools in their native language, theatres, cultural centres and their own literature, local Ukrainians gradually found themselves on the periphery of their own national spirituality."³² This conclusion is brightly illustrated by the data on the native language obtained from censuses. In 1959 – 86.3% Ukrainians in Moldova considered Ukrainian as their native language, in 1970 – 79.4%, in 1979 – 68.5% and in 1989 – 61.6%. According to the results of the last census, only 14% of Ukrainians at the age of 24 - 29 could speak the Ukrainian language freely.³³

In such conditions, the cultural potential of Ukrainians found ways for self-expression and development first of all in the traditional-household culture born in the family and developed spontaneously in the conditions of rural communities.³⁴

It is necessary to note that development of the Ukrainian ethnic culture in Moldova was significantly influenced by the fact that during long time Ukrainians have been in the situation of being surrounded by other nationalities, torn off from the cultural processes taking place in their

³⁰ See: A Roma Spokesman for the Government. European Roma Information Office - E-news - 26 June 2007.

³¹ Roma Virtual Network, Budapest, November 7, 2007.

³² Framework Convention on the Protection of National Minorities: Mechanisms for its Implementation, Chisinau, 2000, p. 101.

³³ Functioning of languages in the polyethnic society (English), Chisinau, 1996, p. 41.

³⁴ Galina Rogovaia: National Identification Tradition of the Ukrainians of Moldova. Collection of Unity of the People of the Republic of Moldova and Ethnos Identification Problem, Chisinau, 2000, p. 82.

native land. This resulted in the mutual influence of spontaneously formed and developing Ukrainian culture and other cultures frequently going along with its culturalisation and assimilation.³⁵

At the end of 80s and beginning of 90s, in the conditions of wide democratisation in the Republic of Moldova, there starts a national movement for the revival of the Moldovan national culture and spirituality. For Ukrainians, the growing movement of the majority ethnos for its national revival in the conditions of consolidating other-nationality environment became a problem of preservation of their identity as well as national and cultural equality. It predetermined the development of the national and cultural movement of Ukrainians and appearance of their non-governmental associations based on the common interests of the citizens belonging to the non-titular nation in the context of revival and preservation of the Ukrainian culture and language. In 1990s, there were formed on the republican level Ukrainian Community of Moldova (chairman – N. Olejnik), Ukrainian Women Association of Moldova (chairman – V. Moraru), Ukrainian Cultural Society of the Republic of Moldova (chairman – A. Maistrenko), "Prosvita" Society named after T. Shevchenko (chairman – G. Rogovaia), the RM Ukrainians Union (chairman – S. Myslitskaja), Philanthropic Foundation "Vidrodzhennia" (president - E. Oseredchuk).

Activities of these organizations contribute to the revival of the Ukrainian culture, national traditions and customs and familiarisation of the Ukrainian population in the Republic of Moldova with their history and language. It was on the proposal of the Ukrainian Cultural Society that the RM President issued Decree No 64 of February 22, 1991 "On the Measures for Supporting the Ukrainian National Cultural Development in the Republic" and the corresponding Decision of the Government No 219 appeared on April 5, 1991. Activities of non-governmental associations of Ukrainians in many respects promoted solutions for the whole complex of social and cultural problems related to ethnic Ukrainians in Moldova.

In accordance with the Governmental Decision, at the Institute for Interethnic Studies of the Moldovan Academy of Sciences a section for Ukrainian Studies was established; certain success was achieved in the sphere of education of Ukrainians in Moldova.

At present, in 52 educational institutions (including 5 lyceums) subordinated to the Ministry of Education of the Republic of Moldova (without Transnistria), the Ukrainian language and literature are studied as subjects (1009 pupils), there are functioning 12 experimental classes (284 pupils) with the Ukrainian language of instruction. In the 9 groups of 6 kindergarten, education and training of children (176 persons) is carried out in the native language. However, studying of the Ukrainian language as a subject is prevailing.

Curricula for grades I-X II in the Ukrainian language and literature have already been published, as well as methodological guidelines for grades 5-12 on implementation of the curricula, "copy books", Abc-Book, Ukrainian Language and Literature for grades I - IX. Mathematics for grade I was translated from the state language. A joint Ukrainian - Moldovan creative collective has been involved in the development of this complex of educational materials.

Certain conditions are created for training and extension training of the pedagogical staff for preschool institutions, primary and high schools with a contingent of children of the Ukrainian ethnic origin. Preparation of tutors for preschool institutions and teachers for primary school is carried out in Lipkany pedagogical college, teachers of the Ukrainian language and literature – in

³⁵ Viktor Kozuhari^ Ukrainians of Moldova: Ethnic and Cultural Characteristics. Collection of Unity of the People of the Republic of Moldova and Ethnos Identification Problem, Chisinau, 2000, p. 70.

Beltsy State University. During the last few years, there have been trained more than 100 instructors in this speciality in our Republic and 30 – in Ukraine. Every year, 20 teachers – specialists in the Ukrainian language and literature – pass study at the retraining at Beltsy State University and 25 - in Odessa Extension Training Institute. At the same time, the study of the Ukrainian language and literature is organised not in all places of compact residence of Ukrainians. Today, only about 25% of children in places of compact residence of Ukrainians study their native language. Local public administrations oftentimes did not properly fulfil the measures of legislative nature taken on the state level. For example, we should note that till now, despite all adopted decisions, in the majority of villages with compact Ukrainian population, the Ukrainian language is not taught at schools and kindergartens, let alone the training in the Ukrainian language that would promote the Ukrainian cultural development and thus prevent the process of Ukrainians assimilation. As a result of this situation, Ukrainians from rural areas have put up with being called "hohly", i.e. representatives of the unrecognized ethnic group whose culture and language do not appeal to anyone and, in general, do not enjoy any special rights or respect.³⁶

It is paradoxical that the central governmental bodies did take measures aimed at changing those negative tendencies whereas, unfortunately, on the level of specific communities these measures remain unimplemented. Thus, today in the Republic of Moldova there is only one school with the Ukrainian language of instruction and only in 67 out of 350 villages with compact Ukrainian population the Ukrainian language is studied at school. Measures approved by public administration bodies and aimed at the support by the state of cultural centres, clubs and libraries have proven to be insufficient. The economic crisis that began in 1990s and continued till now, as well as the undertaken reforms of public administrative structures, which are frequently not very well thought over, have destroyed the system of organisational management and financial maintenance of the cultural sphere that developed for many years.

I.3.2.2 Roma

Roma in Moldova is an ethnic minority. They differ from the rest of population due to peculiarities of their culture, mother tongue and mostly through traditions. According to the statistic data of regional public authorities (2002), the total number of Roma population on the territory of the Republic of Moldova is 19.000, including: in the district of Soroca – 4,286, Orhei – 1,789, Tigina – 575, Taraclia – 532, Edinet – 4,293, Balti – 2,055, Ungheni – 2,265, Lapusna – 1,080, Kahul – 526, Chisinau – 1,105, ATO Gagauzia – 1,550. Despite these data and the fact that the official census, carried out in 1989 showed that the size of the Roma population in Moldova is 11.600 persons, which is 0.3% of all the population, the real number, according to Roma leaders' statements, is much larger and can be estimated around 150.000. They are considered to live dispersed all over the whole country and can be found in such cities as: Chisinau, Otaci, Soroca, Balti, Edinet, Drochia, Riscani, Orhei, Calarasi, Nisporeni, Comrat, Ciadir-Lunga, as well as in Tiraspol of the Transdnestrian region.

About a half of the Roma population of Moldova lives in compact rural communities. The situation of Roma in these communities is one of the most alarming problems concerning the minority rights protection. The estimated number of these communities is around 20 with a population varying from several hundreds to thousands. In many cases the communities are component and physically indivisible parts of larger settlements, but frequently they form separate settlements, being included administratively as satellites in predominantly non-Roma units. These communities are disregarded, their interests are not represented in the processes of

³⁶ Victor Kozuhari: Ukrainians of Moldova: Ethnic and Cultural Characteristics. Collection of Unity of the People of the Republic of Moldova and Ethnos Identification Problem, Chisinau, 2000.

making decisions, and they lack self-administration to a slight possible degree exercised by a distinct cultural group.

According to the study performed by the NGO Resource Centre for Human Rights “CReDO”, in seven Roma communities, in which Roma reside compactly constituting majority of the population, economic situation of rural Roma communities is extremely poor with respect to generally accepted living standards and in comparison with the neighbouring rural communities of Moldovans, Ukrainians, Gagauz, Bulgarians, Russians, whose economic situation is relatively better. Paved or hard covered roads do not exist, thus the access to communities is closed during heavy rain or snow, especially in autumn, spring and winter. For instance, the Schinoasa community is situated a couple of kilometers off the main road, so inhabitants of the community have to carry ill people in hands up to the main road, should they need an urgent medical intervention. Houses are scarce and of extremely poor quality, and they are likely to fall apart. No running water or wells and no access to drinking water – these are general problems of Roma communities. In Schinoasa for a population of about 300 persons there are only 4 wells, of which only two are used for drinking purposes, but even there the water is visibly bad. In the majority of cases electricity is not available for different reasons such as the lack of resources to pay for it or a destroyed electricity system. In Schinoasa the community has been totally disconnected from electricity for more than five years. In Ursari, though it is situated on the main road, only some of the people have electricity, mainly those who live closely to the next Moldovan village and around the school. In the majority of cases, as in the case of Schinoasa and Ursari, no shops of any kind (food, clothes, medicine, etc) exist. Humanitarian aid, when it reaches the villages, is a very important source for survival.

Information comes only through people coming into and leaving communities, nobody subscribes to newspapers or listens to the radio, the cause being the lack of money to pay. Telephone connection does not exist in the majority of communities, as in Ursari and Schinoasa. In all the communities, officially there are state supported primary schools with the Romanian language of teaching, in which from 20 to 50 children of various ages study together in one or two rooms. In the most cases the allocations from the local budgets for the Roma schools are incomparably less than those for the non-Roma community's schools and schooling. Children in the most cases have no books and other school accessories. Education is carried out only in the State language. There is the lack of nursery schools in all the communities. Libraries contain a few books, the majority of which is in the Cyrillic alphabet and only about 10-20% of books are written in the Latin alphabet. Teachers come in the communities' schools from other communities or from the nearby villages, since a local person able to be a teacher or qualify for that rarely can be found.

Land is the major asset and the source of survival in rural communities. During the soviet times Roma communities had been given the status of localities without perspective which put the people of these communities at a disadvantage as regards their economic and social situation. This practice was kept on after Moldova declared its independence. The people of the Roma communities did not take part in the process of land privatisation due to the privatisation policy pursued at that time. For instance, in Schinoasa only 5% of the population were qualified for privatisation, which is 40-50 times less than the number of people qualified for privatization from non-Roma communities. No employment opportunities exist in the community or in nearby villages, because Roma are considered only season workers for day-to-day engagement.

Roma representatives are not present in any local public governing bodies. All communities are administratively situated in local administrative units where they form a minority, i.e. less than 25% of all population. There are no Roma representatives also in the local councils due to the structure of the local election system.

In many communities Roma use the Romany language in every day life, however in several communities Roma are assimilated to the population they live with. No education or study of Romany exists throughout the Roma rural communities of Moldova. Local authorities do not allocate resources from local budgets for cultural development of Roma communities.

Moldovan authorities have introduced measures in various sectors in order to improve the situation of the Roma. Direct support, including financial, has been given to Roma in education, health, housing and other relevant areas. The evidence of the state attention to the Roma problems, using the international principles is Enactment of the Republic of Moldova Government #131 from 16 February 2001 "About some measures on the Roma support in the Republic of Moldova". It approved "Main directions on the Roma of the Republic of Moldova support for 2001-2010". The provision stipulates concrete measures directed to the improvement of the social status of the Roma living in the republic. The executors of this enactment are the Ministry of Culture, Ministry of Labor and Social Protection, Ministry of Health, the Bureau of Interethnic Relations, Academy of Sciences of the Republic of Moldova as well as local authorities. These institutions developed and approved plans of measures on the Roma of the Republic of Moldova support for 2001-2010.

The activeness of Roma population has increased. There are 8 ethno-cultural organizations with republican status registered by the Ministry of Justice:

- Public organization of the Roma women «Juvlia Romani», 1997
- Association of the Roma youth «Terminatango-Roma», 1998
- Ethno-socio-cultural association «Bahtalo Rom», 1999
- Social movement of the Moldovan Roma, 2001
- Scientific-cultural association «Elita Romani», 2001
- Union of young Roma «Tărnă-Rom», 2002
- Socio-cultural society «Tradiția Romilor», 2002
- Association of the Roma in the Republic of Moldova «Рубин», 2002

Local authorities (from Chisinau, Balti, Comrat, Chadir-Lunga, Soroca, Vulcanesti) have registered 7 non-governmental organizations of Roma functioning locally.

Representatives of the Roma:

- are engaged in folk festivals, contests, festivals of national cultures, exhibitions of arts and crafts, amateur and folk arts,
- get support, including financial to the events on the revival and development of Roma culture, traditions, customs and traditional crafts,
- bigger amount of help is given to scanty means, needy and socially vulnerable families: they are given fuel, food, clothing and welfare,
- certain measures are undertaken to get more Roma children with secondary education,
- local public authorities' funds are used to repair school premises in villages with the Roma communities,
- Roma receive financial support for publishing activity.

In 2000 for the first time in Moldova the International day the Roma was marked on 7-8 April. The festivities on these days became annual and take place with active participation of the Roma and NGOs, in the best music halls of the capital, like in the House of Nationalities, National Philharmonic society etc.

The tendency of positive changes concerning the state of Roma minority nevertheless has not yet changed their general situation. It is possible to judge it, in particular, by the results of the two research studies conducted by Public organisation (of the Roma women) "Juvlia Romani" and the Helsinki Committee on human rights of the Republic Of Moldova, and funded by international organisations

With the backing of the Council of Europe, there have been recently a number of consultations with the representatives of the Roma on a possible adoption of a comprehensive strategy to supplement and develop the above-mentioned programme. In this context, a negotiating group composed of representatives of various Roma organisations was set up to be the Government's main partner in this process and to put forward concrete proposals on behalf of the Roma. Although some governmental bodies have shown themselves to be open to this process, the drafting of the strategy at present appears to be blocked. The authorities seem to prefer the development of more specific measures, in pursuit of the Governmental Program of 2001, rather than drawing up of the strategy mentioned above.

Despite the measures mentioned, the implementation of the 2001 Governmental Programme for Roma Integration has not resulted in a tangible improvement of the situation yet. A significant proportion of the Roma population of Moldova continues to face serious problems in virtually all key areas of life. In some rural areas they are still almost completely isolated in their villages, which are a long way from other localities and economic centres and in which living conditions continue to be particularly difficult – lacking basic sanitation, heating, running water and electricity. In this context, a high rate of unemployment is reported among the Roma – who have difficulty finding any source of income – housing and health problems, difficulty in accessing social services, no or very limited help from local authorities. In the educational field, it is noted *inter alia* that Roma children are isolated due to the geographic remoteness of their villages. There are high rates of illiteracy and absenteeism and virtually no access to education of or in the mother tongue. Similar difficulties are reported with respect to access to the courts and participation in public life.

Roma participation in public affairs remains very limited. At local level, they are only rarely consulted about affairs concerning them, and their needs are insufficiently taken into account in the decision-making. They are absent from elected bodies, including where they account for a significant proportion of the local population, and their participation in the state administration structures is equally limited. However, the presence of some Roma in the police forces of Moldova must be welcomed as a positive development.

As is mentioned in the Executive Summary of the Advisory Committee on the Framework Convention for the Protection of National Minorities “Although the whole population of Moldova has been suffering as a result of the serious economic difficulties of the country, the Roma suffer in addition from social exclusion and marginalisation. They are the victims of prejudices and stereotypes, often disseminated by the media. Discriminatory practices against them, including, in some cases, on the part of members of the law-enforcement bodies, are reported in most areas”.

The Moldovan authorities report that they have no information on ethnically motivated cases of threats or discriminatory acts, hostility or violence. However, it appears that members of the law-enforcement bodies sometimes display a lack of understanding towards these people, many of whom live in very difficult conditions. Non-governmental sources mention cases reflecting a discriminatory attitude on the part of the police toward the Roma, although no formal complaint has been lodged in this connection. These sources also report instances of abusive behaviour and

even violence by some police officers towards the Roma, including women and children in some cases.

The Roma are also subject to discrimination as regards access to the courts since the police and judicial authorities tend to be reluctant to conduct the necessary investigations and prosecute known perpetrators of violence against the Roma, especially when such acts are committed by police officers

Cases of arbitrary arrest and detention of Roma and persons of foreign origin are also mentioned, as well as ill treatment of persons in custody.

The Advisory Committee notes, however, that Moldova has increased its efforts both at central and regional levels to combat such behaviour, seeking to familiarise the police further with European standards of human rights and the related police ethics. It is also planned to update the code of police ethics as well as to give it the force of legislation, eventually.

Since in the absence of reliable statistics it is difficult to determine the real number of ethnically motivated manifestations of intolerance and hostility, Moldova should take all the steps necessary to enable adequate monitoring of the situation in this field. It is also essential to ensure that all reported cases are investigated in the framework of the supervisory procedures within the police as well as through independent mechanisms and that, where necessary, appropriate sanctions are imposed.

Despite the measures mentioned above, the Roma continue to have serious difficulties in the education field. Difficult material conditions in families and schools concerned (where the minimum conditions needed for education are lacking and children of different ages sit side-by-side, often without textbooks), the complete isolation of Roma children when they live in Roma villages far from other localities, the lack of qualified teachers and other factors result in families' losing interest in education. In the absence of support measures by local authorities, the result is a large number of children who do not go to school, high rates of absenteeism and underachievement at school, as well as continuing high illiteracy rates in this population. These difficulties are accentuating the marginalisation of the Roma and keeping them in a vulnerable situation in terms of the effective participation in the economic, social, political and cultural life of the country, as well as in public affairs.

Notwithstanding the limited resources available, the authorities should try to increase their efforts in this area, including through greater use of the opportunities for obtaining international support for this purpose.

It is essential to act without delay through concerted measures in the various sectors concerned (economic, health, etc) in order to deal with the roots of the problems and make it possible to ensure that Roma children enjoy equal access to education. Awareness-raising measures are also needed for both families and schools with a view to a greater integration of these children in the education system.

Many Roma in Moldova are still in a particularly difficult situation, which is a reason for concern. Tangible improvements are needed in a number of areas (living conditions, employment, education, participation in public life), since the measures taken by the authorities in recent years have proved insufficient. Concerted policies to redress the situation in the sectors concerned, combined with extra funding, should open the way to such improvements. Both central and local authorities are encouraged to adopt a more resolute stance, and take practical steps to help Roma to escape the isolation and marginalisation from which they suffer today. In

particular, the improvement of their socio-economic situation is essential. The co-operation developed with the Council of Europe in this field should continue.

I.3.2.3 Gagauzians ("Gagauz Yeri")

Gagauzians – representatives of ethnos of the Turkic origin that affiliated with the Eastern Orthodox Church – migrated from Bulgaria together with ethnic Bulgarians and settled in Bessarabia between 1812 and 1846. According to the all-Union census in 1989, there were 197,757 Gagauzians living in the Soviet Union, from which 153,458 (77.6%) were living in Moldova; 31,967 (16.2%) – in Ukraine, 12,332 (6.2%) – in the rest of the territory of the USSR. Due to the official statistics about 15,000 Gagauzians also live in Bulgaria, Romania, Greece, Macedonia.

Thus, in 1989 Gagauzians constituted 3.5%, while in 2004 they constituted 4.4% of the population of Moldova. According to the 2006 census, Gagauzia had a population of 155,700, of which 58,300 live in cities and 97,500 in rural communities.

Currently, the ethnic composition of the population of Gagauzia is as follows:

- Gagauzians: 82.0%
- Moldovans: 7.8%
- Bulgarians: 4.8%
- Russians: 2.4%
- Ukrainians: 2.3%

The Gagauz language (Gagauz dili) is a Turkic language, used by the Gagauz people. It is spoken by approximately 150,000 persons. Originally, it used the Greek script. Beginning from 1957, it was replaced by the Cyrillic alphabet. The current Gagauz script is a Latin-based alphabet, modelled after Turkish.

In 1988, activists from the local intelligentsia aligned with other ethnic minorities to create a movement known as the "Gagauz People". A year later, the "Gagauz People" held its first assembly in which a resolution was passed to demand the creation of an autonomous territory in southern Moldova, with the city of Comrat as its capital. Under the totalitarian regime the Gagauz people did not have national schools, their language was neglected, and little was done for the cultural development of the Gagauz. This situation caused a revolt against the authorities. The Gagauzian national movement intensified when Romanian was accepted as the official language of the Republic of Moldova in August 1989, replacing Russian, the official language of the USSR. The Gagauzians were also worried about the implications for them if Moldova reunited with Romania. In August 1990, Comrat declared itself an autonomous republic, but the Moldovan government annulled the declaration as unconstitutional.

However, when the Moldovan parliament voted on whether Moldova should become independent on 27 August 1991, 6 of the 12 Gagauz deputies voted 'yes', and the other six did not participate in the vote.

In 1994, the Parliament of Moldova awarded to "the people of Gagauzia" (through the adoption of the new Constitution of Moldova) the right of "external self-determination" if the status of the country would change. On December 23, 1994 the Parliament of the Republic of Moldova accepted the "Law on the Special Legal Status of Gagauzia" ("Gagauz Yeri" in Gagauz language), resolving the dispute peacefully. This date is now a Gagauzian holiday.

Three towns and 23 communes are included in the Autonomous Gagauz Territory: all localities with over 50% of Gagauzians, and those localities with between 40% and 50% of Gagauzians

which expressed their desire to be included as a result of the referendum to determine Gagauzia's borders.

The autonomy of Gagauzia is guaranteed by the Moldovan constitution, and it is regulated by the Gagauz Autonomy Act of 1994. If Moldova decided to unite with Romania, Gagauzia can realise its right for self-determination. The Gagauzian "People's Assembly", or "Adunarea Populară" (Gagauz: "Halk Topluşu"), has a mandate for lawmaking powers within its own jurisdiction. This includes laws on education, culture, local development, budgetary and taxation issues, social security, and questions of territorial administration. The Gagauzian Assembly has two special powers as well: it may participate in the formulation of Moldova's internal and foreign policy, and has the right of appeal to the Constitutional Court of the Republic of Moldova, in case central regulations interfere with the jurisdiction of the Gagauz-Yeri.

The supreme official of Gagauzia, who heads the executive power structure, is the Governor of Gagauzia, and is elected by popular vote for a four-year term. He has power over all public administrative bodies of Gagauzia, and is also a member of the Government of the Republic of Moldova. Eligibility for governorship requires fluency in the Gagauz language, Moldovan citizenship and a minimum age of 35 years.

Status of Governor (Bashkan) of Gagauzia

- he is an official person in the territory of ATU who controls all public administration authorities of Gagauzia (Art.14 (1) from Law #344/1994);
- he is a member of the Government of Moldova (confirmed in this office under a decree by President of Moldova);
- rules the activity of public administration authorities and fulfils the competences entrusted by law;
- issues laws, decisions and orders which are executory in the entire territory of Gagauzia and enter into force when they are published;
- signs the local laws adopted by the People's Assembly of Gagauzia;
- proposes the competence of the permanent executive body of Gagauzia — the executive committee;
- proposes the appointment of some representatives of security and law bodies of ATU (head of the information and security directorate, head of the directorate of interior affairs of Gagauzia), etc.

Permanent executive power in Gagauz-Yeri rests with the Executive Committee, members of which are appointed, on the proposal of the Governor, by a simple majority vote in the Assembly at its first session. The Committee ensures the application of the laws of the Republic of Moldova and those of the Assembly of Gagauz-Yeri. As part of autonomy, Gagauzia has its own police force.

Thus, the conflict was settled by giving a special legal status to Gagauz-Yeri (Territorial Autonomous Unit of Gagauzia), and by providing large scope of political, administrative and

cultural autonomy. Gagauzia is now a 'national-territorial autonomous unit' with three official languages (Moldovan, Gagauz, and Russian).

The resolution creating the Gagauz Administrative Unit was positively received in Europe. Many European human-rights organisations recognise and promote Gagauzia as a successful model for resolving ethnic conflicts.

Gagauzia can point to a number of successes in its national-cultural development during the last years. It now has a university, a pedagogical college, arts school, vocational schools, dramatic theatre, about 40 groups of amateur artists, which are created at schools, lyceums, a professional folk group “Kadynja” etc.

Gagauz language and literature are taught in 55 schools, although Gagauz is still not used as the language of instruction in educational institutions. The preparation of the teachers of Gagauz language and literature is organized in the Comrat state university and in the State pedagogical university after Ion Creanga (Chisinau), where the teachers of Gagauz and Romanian language and literature are trained. Comrat pedagogical college after M.Ciachir prepares specialists for preschool and primary school establishments in the localities with compact Gagauzian population. There are several private radio and television channels broadcasting in Gagauzia, as well as the public company Teleradio-Gagauzia. A newspaper “Ana Sozy” and a magazine “Ana Dili” are published in Gagauz language.

Gagauzia still has to solve important economic, educational, cultural and social problems.

I.3.3 Romania

I.3.3.1 Hungarians

According to the last census, 1.5 million ethnic Hungarians live in Romania at present, representing 6.6% of the population. The community is characterised by strong national identity and a well-organised political representation, maintaining its demands high on the Romanian political agenda.

Historically, the Hungarians arrived by migrating gradually from the region between Volga and Ural to the intra-Carpathian region, where they formed a state in 896. Hungary became a Christian state in 1001, under the King I. (Saint) Stephen. In this period, two episcopates were created in the Transylvanian region.

After the Schism between the later Catholic and Orthodox Churches, the feudal privileges were offered in Hungary based on the appurtenance to the Catholic Church. In addition to the Catholic nobles, privileges were offered also for the group of the also Catholic Szeklers. The role of the Szeklers (Hungarian speakers, but with a debated origin, by some historians former Huns), settled in South-East Transylvania in the XIIIth century, and in return for privileges had to guard and defend the Eastern border of the Hungarian kingdom from the Tatars.

In the middle of the XVIth century the central part of Hungary was occupied by the Ottoman Empire. The principality of Transylvania, ruled by the three *natio* (nobles, Szeklers and Germans), became an independent state paying tribute to the Ottoman Empire. The Orthodox Romanians — in numerical majority in the most part of Transylvania, but generally serfs — were not recognized as a separate community with rights and entitlements.

The religious reform (Lutheranism, Calvinism and Unitarianism) affected the Hungarian community, Catholicism becoming a minority religion. The Assembly of the three *natio* from Turda in 1568 established the freedom of religion and the tolerance among Catholic and

reformed Churches. Romanians are acknowledged officially as a community and granted entitlements much later, under the rule of Maria Theresa.

At the end of the XVIIth century Transylvania became a part of the Habsburg Empire, as a principality. Hungarians and Szeklers tried to obtain independence of the region several times, without success. The Szekler refugees from these times formed, in the central-western part of Moldova, the Csango community. In the second half of the XIXth century, Hungary, including Transylvania, becomes a sovereign state as part of the dualist Austro-Hungarian monarchy.

The redrawing of state borders after the First World War, namely the disintegration of the Austro-Hungarian Empire (including the annexation of Transylvania to the Romanian kingdom) led to significant migration especially among Hungarian ethnics, who mostly targeted the independent Hungarian state. Transylvania and the eastern part of Hungary became Romanian territories, and Hungarians became a minority overnight. The new borders established in Trianon Palace at Versailles created a “Trianon Syndrome” among Hungarians in downsized Hungary, as well as among now-minority Hungarian communities in the neighbouring countries, characterised by the refusal to come to terms and accept the new minority status, also by the lack of trust in policies of the home country (“we are alone, nobody helps us” mentality).

After the Second World War, the Soviet type regime negatively affected all traditional minorities of Romania, including Hungarians. In the 80s started the emigration of Hungarians in Hungary, what continued also after the collapse of the regime (December 1989).

I.3.3.2 Roma

The Roma community, originally from India, is mentioned on the present territory of Romania for the first time in 1385. In Walachia and Moldova they were slaves, working for monasteries and landowners (boyars). In Transylvania, the Roma were mostly nomadic.

Traditionally, the Roma community was organised in families with specific occupations: “Rudari” (working with wood), “Ursari” (entertainers usually with animals, like bears), “Lăutari” (musicians) etc. Several communities, because of historical conditions, as well as forced sedentarisation, lost significant part of their traditions: 'Romi de vatră' (Romanised Roma), 'Romungro' (Hungarian Roma) etc. The Roma were liberated from slavery in the second half of the XIXth century, although no measures were taken to offer them alternative sources of survival other than what petty jobs could offer (both in urban and rural areas).

The communist regime changed the life of Roma. Nomadism was prohibited, the traditional trades affected or even forbidden. At the same time, the settled Roma were included in the agricultural cooperatives, and Roma from the cities were employed as (mostly) unqualified labourers in factories.

At present, the Roma community (officially slightly over half million individuals – representing 2,5% of the total population, estimated to be much larger) is facing serious social and educational problems, fighting against prejudices and discrimination.

I.3.3.3 Ukrainians and Ruthenians

Ukrainians are living in Romania in four different regions with different histories.

- Ukrainians from Maramureş (northern part of Transylvania) live in the border area near Ukraine, where they were present from the VIIth century on. Ruthenians are first

mentioned in this region in the XVth century. The 'Ruthenian question' is debated by specialists, many of them considering that Ruthenians are not a national minority but a Ukrainian community with some regional specificity. Nevertheless, they are represented by two different seats in the Romanian parliament's lower house.

- Ukrainians in the Northern part of Romanian Moldova (South Bukovina) have been living there from the VIIth century, as well.
- In the Dobrogea region (Danube Delta) Ukrainians first arrived in the first part of the XVIIIth century, as an effect of the chase of the Cossacks in Russia.
- In Banat (western Romania), the Ukrainians settled in the late XVIIth century from the Maramureş region.

At the beginning of the 1930's, the Romanian government started a campaign of Romanising ethnocultural minorities. As a result, schools, newspapers, cultural institutions of Ukrainian communities were closed down, the use of their mother tongue banned in the public. Officially, members of this minority were considered to be ethnic Romanians who had forgotten their original language. After the communist party took over (1947), in all localities where Ukrainians lived (over 100) elementary schools were founded in which the sole language of instruction was Ukrainian. Moreover, in Suceava, Siret, Sighetul Marmatiei high schools and post-secondary institutions of education existed with Ukrainian as language of tuition. The following year, the Ukrainian Catholic Church was absorbed by the Romanian Orthodox Church. In the 1950's and 1960's, Ukrainian cultural life flourished, directly supported by high profile institutions, such as the Romanian Academy and some departments of the University of Bucharest. Ceausescu's anti-Soviet attitude made Ukrainians' fate in Romania much more difficult: they were the targets of anti-Soviet sentiments and there was a strong pressure over parents to send their children to Romanian schools. Moreover, all of the Ukrainian elementary schools were closed down in Bucovina, Banat, Dobrogea and the Danube Delta, and Ukrainian education seized to be offered in high schools in Siret and Suceava. Much of this minority's cultural life revolved around the Orthodox Church, which in fact had little interest in promoting this, having been a supporter of the Ceausescu regime. As a result, Ukrainians remained fully isolated from their co-ethnics across the northern border.

According to the last census, in Romania there are more than 60 thousand Ukrainians (0.28% of the population). The 2002 census does not separately account for Ukrainians and Ruthenians, as the latter are counted as Ukrainians. In 2000, the Cultural Union of Ukrainians in Romania was registered, successfully winning one seat in the lower house of the legislative. Because the areas inhabited by most of Ukrainians are located in an isolated mountainous region or in the Danube Delta, in addition to the effects of the assimilationist policies of the past century, the community is facing social and educational problems.

I.3.3.4 Turks and Tatars

Several Turkish peoples migrated to the Dobrogea region from the IXth century on as Pechenegs and Cumans. In the second part of the XIIIth century Tatars and Seljuk Turks arrived in today's Romania, the colonisation continued by Osman Turks in the XIVth century, when the region became a part of the Ottoman Empire. New Tatar colonist arrived in the XVIth and XVIIIth century from Crimea.

The Russian-Turk wars affected the Islamic communities in the region, and after the 1877-1878 war (ended by the peace treaties in Berlin) when Dobrogea became a part of Romania, emigration of Turks and Tatars towards Turkey and Crimea, respectively, started.

The Turks are facing serious educational problems. In the 1930's, the Turkish emigration grew to unprecedented intensity. The 1948 reform in the education system created new schools in

which the language of tuition was Turkish. These schools were closed down in 1959-1960. To this day, instruction in Turkish lacks thoroughness. Tatars, lacking a kin-state, have been assimilating into the Turkish community starting from the Middle Ages and to our days. It has to be noted that according to the results of the last two censuses, the only two ethnocultural minorities in Romania registering numerical growth are the Roma and the Turks.

I.3.3.5 Jews

The first reference to Jews on the present territory of Romania dates back to the Roman Empire. In Transylvania, Jews are mentioned in the XIth century when the Hungarian king took anti-Jewish measures. Their treatment had oscillated numerous times between persecution and offering privileges, depending on the economic situation of Hungary, Transylvania or the Habsburg Empire. In 1895, Jews from the Austro-Hungarian Empire were granted civil and religious rights equal with other citizens. In Walachia and Moldova, Jews are mentioned as early as the XVIIth century. Persecuted in neighbouring countries, the Jews got privileges in order to develop the economy of the region.

After the First World War, the new Romanian Constitution recognised the civil rights of Jews, but in 1940 the first anti-Jewish legal acts were promulgated. In northern Transylvania, under the 1940-1944 Hungarian rule, the Hungarian anti-Jewish laws were enacted, and mass deportation and extermination of the community began in March 1944 up to the end of the Second World War. According to the Romanian legislation passed in August 1940, Jews could not serve in the army, in public administration, they were banned to work as editors, civil servants, members in boards of trustees and administration, lawyers, etc. They were also forbidden to purchase property, industrial units, etc. In some localities measures were taken to create ghettos: marriages between Jews and non-Jews were banned and changes of names were annulled. Moreover, properties of Jews living in rural areas were confiscated, whereas those occupying positions in the industry were the first to be fired.

Civil restlessness also targeted Jews: protests of the Iron Guard (fascist movement of the late 1930's) assaulted Jewish neighbourhoods, burnt down synagogues, devastated homes, destroyed shops. Jews were killed regularly. Due to the war with the Soviet Union, anti-semitic activity became brutal: pogroms and deportations became common. Some Jews were deported to Transnistria into concentration camps. By 1942, two thirds of the autochthonous Jewish community had been killed as a result of systematic extermination. The remaining Jewry survived the Holocaust as in the fall of 1942, the Romanian government changed its mind to send the remaining population to Poland. Later on, the extermination camps in the Transnistria region were also closed.

After the war, most Romanian citizens of Jewish background decided to emigrate to Israel, leaving the country virtually void of any Jews. At present, their numbers are under 6,000, mostly elderly, living in major Romanian cities.

I.3.4 Ukraine

I.3.4.1 Russian minority

Among all 'classical' national minorities of Ukraine, the most sizable and most problematic one is the Russian minority (17.3 % of the whole population), which is often referred to as "more than minority". Their political leaders – or, rather, those persons who themselves claim to represent Russian community of Ukraine – usually reject the very option to be seen as just one of ordinary minority groups, even the largest and most important one. Instead, they resort to assertions like the existence in contemporary Ukraine of the two "state-forming nations" (Ukrainians and Russians) and insist, *inter alia*, on providing for Russian language a status of second 'official' or state language. These and other claims, exploiting not so much the "Russian

idea” *per se* but, rather, nostalgia for living together in the USSR – the “super-state” where Russians and Russian language enjoyed overwhelmingly dominant position in the then one sixth part of the whole globe – traditionally gain impetus before and during election campaigns.

However, all those attempts to attract the voices of electorate, particularly in heavily populated Eastern and Southern regions of Ukraine, well known for their much more pronounced Russification and, therefore, stronger sentiment towards Russia and Russians, have so far failed. Even in Crimea – the only region of Ukraine with ethnic Russian majority – such political movements or parties as “Russian Bloc”, “Soyuz”, so called “ZUBR” (“For Ukraine, Belarus and Russia”), Communist party of Ukraine, Progressive Socialist party etc. constantly gained poor electoral support during successive parliamentary or presidential elections, and never passed the threshold necessary for getting representation in all-national legislature. Feeling themselves secure and not threatened by national consciousness, gradually evolving in newly independent Ukraine, overwhelming majority of ethnic Russians have never aimed at mass exodus to “mother Russia” or fought to oppose Ukrainian strive for independence. As an illustration, it is worth mentioning that in 1992, after the creation of Ukrainian armed forces, most officers of ethnic Russian origin swore the oath of allegiance to Ukraine.

This phenomenon is usually explained by a rather weak Russian ethnic identity (compared, for example, to strong identity of Serbs, dominating in another multinational empire – Yugoslav Federal Republic, – that had led to Serb ethnic mobilisation after the disintegration of the latter, and resulted in violent Balkan wars).³⁷ Actually, both Tsarist and Soviet empires suppressed the development of ethnic Russian identity and national consciousness, channelling them towards broader imperial or pan-Soviet “statist” identity. As a result, separatist movements based on Russian irredentism had never been successful even in Baltic countries where, unlike Ukraine, anti-Russian moods did take place in late eighties and nineties.

The “fluidity” of Russian self-identity can be illustrated by the results of the post-Soviet censuses. Not only in Ukraine but, surprisingly, in Belarus as well, the number of Russians has declined. In Ukraine, this decline constitutes almost five percent – from 22.1% in 1989 to 17.3 % in 2001. Sociological and ethnological research studies and surveys suggest that such a difference has to be explained not so much by the outflow of ethnic Russians from Ukraine but, rather, by re-identification of its permanent residents, especially the descendants of mixed, Ukrainian-Russian, marriages. In the USSR, the term “Russian” was perceived as similar to “Soviet” and therefore, many Soviet citizens, especially from ethnically mixed families, preferred to be defined as “Russians” for career purposes. After the collapse of the USSR, such a perception has lost either practical or conceptual meaning; no wonder that it is no more inherent in mass consciousness within the non-Russian successor states.

Blurred Russian and Soviet identities did cause, however, certain internal tensions, in particular, in eastern and southern parts of Ukraine. Those tensions have been seriously aggravated by permanent political and diplomatic interventions on the side of Russia, where a bitter sense of the lost status of great world power is closely linked to “neo-imperial” revenge passions and proclaimed intentions of restoring it at the expense of the CIS – “near abroad” – countries. One of the potent tools for pursuing such a policy, unthinkable of in terms of international law norms and standards, is a continued policy of equalling “compatriots” (“sootchestvenniki”) with Russian-speaking populations of the post-Soviet states (comprising, in contrast to ethnic Russians, the majority of Belarusians, nearly half of Latvians and Kazakhs and roughly a third of Estonians and Ukrainians). As a result of such a policy, we are witnessing repeated calls by

³⁷ “Russians and Russophones in the Former USSR and Serbs in Yugoslavia: A Comparative Study of Passivity and Mobilisation “ by Taras Kuzio. (Paper given at the annual convention of the Association for the Study of Nationalities, Columbia University, 4-6 April 2003).

Russia's Foreign Ministry, security forces, politicians and media for the defence of "compatriots" (Russophones), not of Russian citizens or even ethnic Russians *per se*. As a recent illustration, the statement by Russian First Deputy Foreign Minister Alexander Denisov can be quoted. On November 26, 2006, at the noon of the CIS summit in Belarus, he told to Russian media that Russia will maintain relations with CIS countries depending of their attitudes toward not only their ethnic Russians, but also regarding the status of Russian-speaking citizens of CIS member states, expressing deep concerns that "Russian language has been shrinking all over territories of the former USSR, except for Belarus, while the higher education tends to be in national languages."³⁸

I.3.4.2 Moldovans and Romanians

Most of Moldovans reside in the border region to the Republic of Moldova, consisting of the three oblasts – Odes'ka, Chernivets'ka and Vinnits'ka – populated also by Romanians, Bulgarians, Gagauzians, Jews and some other minorities.

Comparison of data obtained from the censuses of 1989 and 2001 shows a general trend of decreasing number of 'traditional' national minorities' members, including Moldovans. Romanian minority, however, numerically increased; this might be explained by a complicated process of ethnocultural re-identification of people belonging earlier to Moldovan minority.³⁹ This trend coincides with the growing number of Moldovan nationals requesting Romanian citizenship in view of a growing appeal of Romania as a member state of the EU. Contributing to this specific post-Soviet/post Cold War phenomenon, there are different and often incompatible perceptions concerning 'Moldovan' versus 'Romanian' identities. Once and again, tensions caused by the identity problems complicate the relations between the Romanian and Moldovan minorities in Ukraine⁴⁰ and hinder the development of closer cooperation between minority groups, especially those residing together in the border regions. The same issue sometimes shadows bilateral Ukraine-Romania and, to some extent, Ukraine-Moldova interstate relations.⁴¹

Since most significant and concentrated ethnic groups of Moldovans and Romanians are represented in Chernivtsi Region (North Bukovyna), we suggest focusing on the mentioned region because the analysis of the interethnic relations in this region might be applicable for the conclusions regarding Ukraine as a whole.

Romanians and Moldovans constitute, respectively, 12.5% and 7.3% of the Chernivtsi region population (as of the 2001 census). Romanians form compact communities in Hlyboka, Herza, and Strozhyne districts as well as in the city of Chernivtsi. Moldovan compact communities are located in Hlyboka and Strozhyne districts.

³⁸ BIGOTRY MONITOR, Volume 6, Number 41 Friday, December 1, 2006.

³⁹ In compliance with the principle of self-identification, Romanians and Moldovans are regarded as the two distinct national minorities of Ukraine.

⁴⁰ For example, some of the Romanian NGO leaders claim that there are no and could not be any ethnic Moldovans because the Moldovan nation is non-existing, being just the 'invention' of Soviet (Stalinist) policies.

⁴¹ Since in Romania, the existence of the Moldovan statehood but not of the Moldovan nation is recognized (according to this logics, it follows that no Moldovan minorities could be identified not only in Romania but in other states as well), most Romanian politicians and experts have stated that Ukraine pursues the 'Stalinist' policy by dividing the Romanian-speaking minority into Moldovans and Romanians, instead of summing up 258,600 Moldovans and 151,100 Romanians (according to the 2001 census), thus making them a single group – the second by size after Russians. In this context, it should be recalled that Article 13(2) of the bilateral Treaty on Good Neighbourly Relations and Cooperation between Ukraine and Romania stipulates that the respective 'kin-minorities' in Ukraine and Romania include the citizens who, irrespectively of places of their settlement, *have freely chosen* to belong to this minority on the basis of their ethnic origin, language, culture or religion.

A big number of non-governmental, mostly cultural and educational organisations, based on ethnic principle, are present in Bukovyna. Many of these organisations appeared in the early 1990s, declaring ethno-cultural revival and development (in most cases identified with the language) as their objective. However, with time the ideology of some of these organisations underwent changes bringing to the fore the political aspect of their activities.

Among a number of NGOs in the Chernivtsi region established by the Romanian ethnic minority, the most influential are the following: Mihai Eminescu Romanian Culture Society with 4.500 members, possessing regional status and its own media outlet *Plai Romanesk*; Victims of Stalin Repressions “Golgotha” with 2000 members, regularly publishing *Glasiu Adevărului*. Some all-Ukrainian organizations, for example, Christian-Democratic Alliance of Romanians in Ukraine with 2000 members, All Ukrainian Aron Pumnul Science and Education Association are represented in Bukovyna. A number of amateur groups including 95 amateur theatre groups, 114 Romanian choirs, 85 Romanian musical ensembles are functioning in the region.

An important element in joint activities of non-governmental organisations and government authorities is regular holding of cultural events focusing on multicultural nature of the region: folklore festival “Bukovynski zustrichi” [Bukovyna meetings], Romanian spring festival Mărțișorul, Jewish national holiday Purim and others.

A major problem in ethnic relations in the Chernivtsi region consists in ethnic self-identification and its interrelation with the regional identity (bukovynians [inhabitants of Bukovyna]) from the one side, and civic identity (citizens of Ukraine), from the other. It should be noted that regional identity (bukovynian, bessarabian) is becoming marginalised, while civic identity (a citizen of Ukraine, Moldova, Romania) is gradually strengthening, as is evidenced by sociological data. At the same time, analysis of ethnic relations in this (and other) multiethnic regions also shows a growing distance between minorities and majority, in contrast to previous decade.

This trend may be explained by the overall social and political situation in the country, also by the influence of political campaigns carried out during presidential and parliamentary elections. Conservatism, isolationism, entrenched stereotypes, complexes of ethnic/national inferiority provide an ample opportunity to manipulate essential part of national minority members.

Another dividing line relates to somewhat disputable identities – Romanian versus Moldovan. According to the last census, a number of Romanian language speakers in Bukovyna identify themselves as Moldovans, thus antagonizing ethnic Romanian societies whose members mostly believe that such a division is non-existing, and that there is only one ethnos in the region – Romanian. As a result, these organizations’ activities are mainly aimed at overcoming a “historical injustice” of accepting the difference between Moldovans and Romanians. In another region of Ukraine – Odesa oblast – Moldovan identity seems having much stronger position (123,700 recognise themselves as Moldovans according to census of 2001, whereas less than 2000 self-identify as Romanians). The same is true for eastern and southern oblasts with less sizeable Moldovan population. For example, in Mykolayiv, Kherson, Kirovograd oblasts and in Crimea live, respectively, 13.1, 8.2, 4.1 and 3.7 thousand of Moldovans, and statistically negligible number of people self-identified as ethnic Romanians. Such distinct preferences reflect, presumably, geographical closeness to this or that kin state: Romania for Bukovyna (Chernivtsi oblast), and Moldova for southern-eastern regions.

It should be mentioned that certain “split” concerning self-identification of the Moldovan community of Ukraine, and sometimes tense relations with well-established and more assertive members of Romanian community, is also influenced by not always easy bilateral relations between their appropriate “kin states” (Republic of Moldova and Romania, respectively).

Noteworthy, Romanian national minority is the only one (except Russian) community of Ukraine that reveals a growing number of members – 151.1 thousand in 2001 compared to 132.9 in 1989. This rise to some extent correlates with a substantial decline of Moldovan minority (258.6 thousand in 2001 versus 324.5 in 1989). Because no mass outflow of ethnic Moldovans from Ukraine has been registered, the explanation for this phenomenon can be sought in re-identification of Moldovans, voluntarily recognizing Romanian as their ethnicity and in some cases, probably, switching to Ukrainian as well. These data may indicate, once again, that Moldovan identity is not yet firmly established and universally recognised – be it in the kin state, in Romania, or in Ukraine. Romania's joining the EU adds its appeal for the Moldovans who acquire, due to such re-identification, a chance of receiving Romanian citizenship and gaining much easier access to the European countries – members of the EU.

The Romanian minority, with its clearly defined ethno-cultural self-identity, is much more assertive than Moldovans in their European aspirations and claims to ensure European standards of minority rights protection. In particular, after the Orange Revolution of 2004, the demands of Romanian minority have been formulated in the Statement addressing the newly appointed governor of Chernivtsi oblast on behalf of the Union of Romanian NGOs “For European Integration” (a kind of umbrella organisation with regional status).

The main points of it are the following:

- Proportional representation in all local executive bodies and agencies (with candidates for offices to be agreed upon with local Romanian communities);
- Restoration of traditional historical names for those villages where autochthonous Romanian minority had traditionally resided, and which were arbitrarily changed in 1947;
- Providing bilingual toponyms for places with compactly residing Romanian and mixed population;
- Preserving and broadening the system of secondary schools with Romanian language of instruction;
- Opening of Romanian groups in all faculties of the Chernivtsi university, with a prospect of establishing an institution of higher education using Romanian language of instruction;
- Wider support for different cultural activities and increasing a number of books published in Romanian;
- Re-translation of national TV broadcasting from both Moldova and Romania, with a prospect of creating a separate TV channel in Romanian;
- Providing for Romanian community the premises of those buildings that belonged to it before 1944;
- Putting the end to any signs of chauvinism and non-tolerance

However, during local elections of 2006, Romanian civic organizations in the Chernivtsi region turned out not consolidated enough to put forward clearly formulated political claims. Party of Region filled the gap by carrying out political campaign based on protection of minority rights in the regions of compact Romanian communities. Ethnic Romanians also came into power as members of BYUT [Yuliya Tymoshenko Block], and Nasha Ukrayina [Our Ukraine].

To meet these demands, governmental bodies, as well as a whole society, have a lot to do for years ahead. Especially taking into consideration that nowadays, the situation often reveals symptoms of nostalgia for soviet “internationalism”. More balanced and “modernised” policy in such a delicate sphere as interethnic relations could be successful if a number of commitments are fully recognised and aimed at harmonising both majority-minority and minority-minority relations. Among necessary measures, open and honest discourse about ethnic minorities, engaging both majority and minorities' representatives, is of vital importance. This must pursue awareness-raising as to specific cultures, traditions, also rights, needs and interests of minority

groups. It is the responsibility of the government to determine legal conditions and practical forms of co-existence of the majority and minorities, which will be acceptable for all sides. Such measures may also limit the influence of more selfish ethnic leaders and ethno-centric organisations, creating instead the sense of inter-group solidarity and what is called a “common good” approach.

I.3.4.3 Hungarians

Concentrated Hungarian minority is presented only in the Transcarpathian Region, which therefore will be in the focus of this part of the study.

In general, Hungarians in Ukraine are considered to be among those national minorities that are most resilient to assimilation. The reason for this resilience can be explained by the formation of compact communities within several districts of only one region of Ukraine. Some of these districts are neighbouring Hungary, a historical motherland (“kin state”) of the minority group. In the Transcarpathian region, Hungarians constitute 12% of the population, forming the majority in the Berehiv region, half of the population in the Vynogradiv region, and a substantial minority in Uzhhorod and Mukachevo districts.

There are more than 100 schools with Hungarian language of instruction, Berehiv Hungarian Institute, Hungarian theatre, Department of Hungarian Language at Uzhhorod National University, Hungarian Studies Institute, a dozen of newspapers, Hungarian Broadcasting Department at the Regional TV and radio station, – all testifying to the opportunities for ethno-cultural development ensured for the Transcarpathian Hungarians. It should be noted that Hungarians are the only national minority of Ukraine possessing the completed system of education on mother tongue – from pre-school institutions to higher (university) education. This made them exceptional among other minorities of Ukraine, and cause sometimes complaints about “preferential” treatment on the side of, for example, Romanian minority still trying to gain access to not yet established higher education in Romanian in the Chernivtsi University.

In the Transcarpathian region, organisations with the biggest number of members are the Democratic Union of Hungarians of Ukraine (DUHU) established in 1993 (has all-Ukrainian status and 10,000 members), and the Transcarpathian Society of Hungarian Culture, carrying its activities independently from DUHU. It amounts to approximately 22,000 members and represents all Hungarians of Ukraine. The two organizations are competing between themselves and are supported by different groups within Hungary.

In comparison to ethnic mobilization of the Romanian minority, that of Hungarians is more active, though it has not reached a stage of conflict or of escalation of tensions with the majority. During the elections to town and village councils in 2006, representatives of parties which were formed on the basis of ethnic Hungarian minority groups – Democratic Union of Hungarians in Ukraine headed by Istvan Gajdos and Party of Hungarians of Ukraine headed by Miklós Kovács – came into power. Therefore, compact Hungarian communities are adequately represented in the local government.

The success of Hungarian parties in local council elections got a lot of publicity in the region, which may hint for establishing political parties to represent interests of ethnic minorities in the future. In particular, representatives of Romanian ethnic minority in the Transcarpathian region have already declared the necessity to create an all-Ukrainian party which could represent the interests of Romanians to the state authorities.

I.3.4.4 Roma

According to the all-Ukrainian census of 2001, there are 47,587 ethnic Roma permanently residing in Ukraine. Compared to the results of the 1989 census (the last one carried out in the USSR), Roma's population remains rather stable, because that time, the figure was 47,915. The majority of Roma population lives in Zakarpats'ka oblast (14,004), the rest of them in a number of large cities: Donetsk (4,106), Dnipropetrovsk (4,067), Odesa (4,035), Kharkiv (2,325), Luhansk (2,284). 1,896 Roma are living in the Autonomous Republic of Crimea. The data about which languages Ukrainian Roma consider their mother tongues are worth attention, too. According to the same census, Romani language recognise as their own 21,266 persons, Ukrainian – 10,039, Hungarian – 9,004, Russian – 6,378, Moldovan – 571. In Transcarpathia, percentage of Roma using Romani language is much lower than average in Ukraine: only 2,871 out of 14,004, whereas vast majority (8,736) recognise as their mother tongue Hungarian, 2335 – Ukrainian, and only 28 – Russian.

However, research studies often reveal much higher figures indicating that Roma population of Ukraine might actually amount to 200,000 or even 300,000. This fact by itself suggests rather vulnerable situation of Roma that may cause unwillingness to provide authentic information about their ethnicity.

This observation complies with the results of monitoring accomplished by a number of NGOs, human rights activists and independent experts. Growing number of Romani public organisations contributed to these activities. The first Romani NGO "Forumo Romen Ukrainatar" was established in 1993; it acts as a consultative body on a broad number of issues and provides with expertise and consultations on legal, social, educational, healthcare and ethnic problems faced by Roma living in Ukraine. On its basis an Advocacy and Information Centre has been created that provides legal and consultative assistance to Roma individuals and local Roma NGOs, holds trainings for Roma NGO leaders, organises seminars and round-table meetings, support Roma students studying in higher educational establishments, is engaged in publication of relevant books, newsletters etc. In 2002, the first All-Ukrainian Congress of Roma NGOs was held in Kyiv, and All-Ukrainian "Congress of Roma of Ukraine" established, uniting 27 regional Roma NGOs. These all-Ukrainian and local (e.g. Romani Yag, Uzhhorod) Romani organisations actively cooperate with international institutions, agencies and advocacy groups, including CoE, OSCE, OSI, IRU, ERTF, ERRC, etc. as well as with state bodies and Ukrainian Government.

Increased attention to specific needs of Roma has led to a set of steps undertaken by government in order to improve Roma situation in a number of areas. In particular, in September 2003 the Cabinet of Ministers approved a three-year "Programme for the Social and Cultural Renewal of the Roma Population of Ukraine" aimed at preserving and developing ethno-cultural identity of Roma population and facilitating their integration into Ukrainian society. Implementation of this programme is rather sluggish, if at all, because of insufficient allocation of financial resources from the state budget. On April 12, 2005, the Parliament's Committee on Human Rights, National Minorities and Interethnic Relations held its first official hearing on the situation of Roma in Ukraine.

On October 23, 2006, the United Nations Human Rights Committee reviewed on its 88th session Ukraine's governmental report on compliance with the International Covenant on Civil and Political Rights (ICCPR). This event has been preceded by submission to the UNHRC of the extended comments on Roma situation, prepared by the European Roma Rights Centre (ERRC) in cooperation with Ukrainian Romani NGOs. The ERRC was engaged in monitoring, research and advocating work on and with Roma of Ukraine beginning from middle 90-s. As a result, a comprehensive Country Report was published in 1997 followed by the next publication in 2001. Since 2003, the ERRC has been involved in a three-year human rights research, training and advocacy project in Ukraine in which a number of local Romani organisations actively

participated. This latest project was supported by the European Commission and the Swedish International Development Cooperation Agency (SIDA). Also in 2006 Ukraine submitted its report to the Commission on Elimination of Racial Discrimination (CERD). Reviewing Ukraine's compliance with the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in August 2006, the Commission issued Concluding Observations containing also a set of Recommendations to Ukraine's government. A substantial part of the latter document relates to Roma situation.

The information contained in the above documents, as well as coming directly from Romani NGOs, has been used for preparation of this section of the Policy Paper. According to thus collected data, there are numerous areas of concern, relevant to a number of articles of the ICCPR. These include:

- Failure to Give Effect to the International Law Ban on Racial Discrimination
- Compilation of Race-Based Identity Databases
- Mass Searches
- Physical Abuse / Torture
- Presumption of Guilt
- Failure to Investigate Complaints
- Police Inaction in the Face of Mob Violence
- Discrimination in Access to Social and Economic Services (including housing, health care, education and employment)
- Lack of Personal and Other Documents

Each area of concern has been documented by the appropriate case studies, the overwhelming majority of which failed to be justly solved, in particular, by courts.

According to the information disseminated by the ERCC, human rights concerns with respect to the treatment of Roma in the criminal justice system present one of the most difficult problems. The cases of abuses of power by law enforcement officials in general have been extensively documented and comprise one of the leading human rights concerns in Ukraine since its independence in 1991.⁴² But Roma and some other ethnic minorities are particularly vulnerable because policing strategies and practices are often based on stereotypes that associate them with criminality.⁴³ Concerning the race-based identity databases, mandatory fingerprinting of Roma is a police practice that is common throughout Ukraine. When interviewed, police officers in Uzhhorod confirmed the facts and justified them as a "prophylactic" measure to combat crime.

No information on similar practice dealing with any other ethnic or social group is currently available.

Another widespread negative stereotype associate Roma with drug trafficking; this often causes arbitrary mass searches of Romani neighbourhoods by police authorities. Since Ukrainian Constitution does not effectively protect citizens from such practice, militiamen are thus relatively free to conduct racially motivated or race-influenced mass searches. (Article 30 of the Constitution stipulates that unwarranted intrusions into homes or the confiscation of property without the substantiated court orders are unlawful, but that this protection may be overridden by authorities in "urgent cases related to the preservation of human life and property or to the direct pursuit of persons suspected of committing a crime.").

⁴² European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Report to the Ukrainian Government on the visit to Ukraine, CPT/Inf (2004) 34, p. 13.

⁴³ See UN CERD, Draft Concluding Observations of the Committee on the Elimination of Racial Discrimination -- UKRAINE, CERD/C/UKR/CO/18, August 2006, para 12.

Even more serious problem consists of torture and ill-treatment in police detention. In 2003, Ombudsmen's office received 1,518 complaints about torture and ill-treatment at the hands of the police, while the Ministry of Internal Affairs reportedly received 32,296 complaints about police mistreatment in 2002 and 2003. Hence, it is difficult to consider these widespread wrongdoings as reflecting racial or ethnic discrimination, although Roma often are victims of such abuses indeed. In particular, in August 2006 the UN Committee on the Elimination of Racial Discrimination stated in a document referred to above: "The Committee is concerned about allegations of police abuse of Roma, including arbitrary arrests and searches and pre-trial abuse based on racially motivated presumptions of guilt... The CERD urged the government of Ukraine: "to further intensify its human rights training for the police and to facilitate the reporting of cases of police abuse of Roma and other persons of different ethnic origin, effectively investigate complaints and bring those found guilty of such acts to justice, provide adequate protection and compensation to victims, and include in its next report detailed information on the number and nature of cases brought, convictions obtained and sentences imposed, and the protection and remedies provided to victims of such acts." In one extreme case, the ERRC filed on June 30, 2003 an application against Ukraine to the European Court of Human Rights in Strasbourg.

It should also be noted that reportedly, when Roma are victims of crimes, they are commonly denied protection by police and judicial authorities. When confronted with Roma complainants who are seeking protection or redress, the police often choose to either not believe them or simply not expend resources in investigating them.

Instances of community violence against Roma have taken place in a number of communities in Ukraine in recent years. Such attacks can take the form of random violence against individual homes or pogrom-like assaults against entire communities. The purposes behind such violence are manifold, be they to terrorize, to force a move out of a neighbourhood, or vigilante acts of vengeance for crimes associated with Roma. When such mass crimes occur, police rarely interfere to prevent perpetrators from carrying out these violent attacks. This lack of protection creates an environment in which people are free to violate rights secured by the ICCPR and do so with impunity. Through its partners as well as independently, the ERRC has documented a number of cases where police officers not only were present at the time of violent mob attacks, but that their blatant disinterest in interfering incited assailants to cause even greater damage.

There are also cases when law enforcement officials try reportedly to extort money or services from Roma. Extortion often comes in the form of threats of bringing criminal charges, incarceration and/or physical violence if victims do not pay cash to secure release. Anti-Romani sentiment in Ukraine, stereotypes about Romani criminality, including those spread by mass media, and the absence of viable legal remedies or other forms of protection leave Roma defenceless in the face of such kind of abuses.

Even more disturbing is the accumulating evidence that despite launching some national projects focusing on supporting Roma communities, not only bodies of self-government and local administration are often not responsive to cases of Roma discrimination, abuses and human rights violations, but the same attitude can also be attributed to central government. As a striking illustration for this point, the Ukrainian government's report to the UN Human Rights Committee provides no information on any of the above listed concerns, and is therefore misleading. Moreover, certain statements have been recognised as untrue, in particular, Par. 356 of the report that stated: "No reports or complaints regarding discrimination or persecution of members of ethnic minorities have been received by either the Ukrainian procurator general's office or the State Committee for National Minorities and Migration". In fact, over the last decade, the ERRC

has repeatedly sent letters to the Ukrainian general prosecutor's office and faced mostly inadequate responses, also in none of the cases addressed those appeals resulted in effective resolution of any human rights issue.

Summarising, the main causes that invoke continued discrimination and human rights violation of Roma in Ukraine are as follow:

- inadequate legislative framework
- impunity for perpetrators
- inactive administrative and governing sector unable to confront expressions of racial animosities
- negative stereotypes often maintained and spread by media
- police officials involved in human rights abuse of Roma.

While each point of concern may require special attention and active governmental and societal endeavours to redress the existing situation, any further steps in this direction would hardly be effective without creating first a solid legislative basis in line with contemporary European approaches to combat discrimination. In this regard, there is an urgent need to develop and adopt, as soon as possible, a comprehensive anti-discrimination law.

I.3.3.5 Crimean Tatars

One more important and sizeable ethnic group in Ukraine is represented by the indigenous Crimean Tatars people.⁴⁴ Their spontaneous mass repatriation (after the events described in the historical overview) has become possible only in 1989, after a Declaration of the Supreme Council of the USSR "On the recognition as illegal and criminal, of actions against peoples suffered from forcible deportation, and providing for their rights" had been adopted. Though the repatriation had to be financed from the state budget of the USSR, after the collapse of the Soviet Empire none of the successor states provided any support for the process, and the burden of all expenses connected to the return and resettlement bear Ukraine and Crimean Tatars themselves.

Meanwhile, then ruling communist and pro-Soviet political elites of Crimea, actively using separatist mood of ethnic Russians, composing the majority of population here, succeeded in gaining for Crimea the status of autonomy that was approved by the Ukrainian Supreme Soviet in 1991, a few months before the collapse of the USSR and Ukraine's independence. This autonomy had (and has) nothing to do with justified needs, interests and rights of the indigenous people coming back to their Motherland after half a century of living in exile.⁴⁵

Thus, Crimean Tatars were not welcome when returning to Crimea. At the beginning of 90-s, local authorities, dominated by Communists and Russian separatists, continued intense anti-Tatar propaganda among mostly Slavic residents of the peninsula and prepared a number of provocations resulted in pogroms, organised by Crimean authorities with the engaged civilians, of several Crimean Tatar self-settlements. These expressions of open violence, accompanied by the acute anti-Tatar statements of the separatist authorities of Crimea, were essentially curbed only after strengthening of Ukrainian rule over Crimea that occurred in middle 90-s.

⁴⁴ See "The Crimean Tatars. The Diaspora Experience and the Forging of a Nation" by Brian Glyn Williams. Leiden: E. J. Brill, 2001. 520 pp.

⁴⁵ "The Constitutional Process in the Autonomous Republic of Crimea in the Context of Interethnic Relations and Conflict Settlement" by Natalya Belitser (A paper presented to the CREES workshop supported by the ESRC funded Project "Fuzzy Statehood" and European Integration in Central and Eastern Europe (ref. L213252001), the University of Birmingham, 10 March, 2000). Available at <http://www.iccrimea.org/scholarly/nbelitser.html>.

Today, according to official data submitted by the Ministry of interior of Ukraine, there are 262,000 Crimean Tatar repatriates in Crimea, and approximately 150,00 – 200,000 are still living in exile, wishing but not yet being able to come back to their homeland.

In June 1991, for the first time after deportation, the Second Kurultay (National Assembly) of Crimean Tatar people was convened in Simferopol (the main city of Crimea). Its delegates elected Mejlis consisting of 33 members who are obliged to face and solve numerous problems between the sessions of Kurultay. This impressive example of long-suffering people becoming so highly self-organised and able to develop a democratic procedure for electing their own bodies of self-government is, perhaps, unprecedented in the whole post-Soviet space. Mejlis, combining to some extent the functions of a national parliament and executive body, extended this system to lower levels, having established regional and local Mejlises throughout the Crimea. Until recently, although recognised de facto, Mejlis has often been considered as “illegal parallel power body” and subjected to permanent attacks by Crimean authorities. Attitudes of some of the Ukrainian authorities were also not especially friendly.

The situation was significantly improved by the Decree of President of Ukraine from 18 May 1999 “On the Council of Representatives of Crimean Tatar People” establishing the latter as a consultative-advisory body attached to President of Ukraine. Such a Council consists of all members of the Mejlis and is headed by the Mejlis Chairperson Mustafa Dzhemilev. The meetings of the Council with President have been convened more or less regularly, and members of the Cabinet of Ministers of Ukraine, of President’s administration, Council of Ministers of the ARC took part in these meetings.

Paradoxically enough, after Victor Yushenko became Ukraine’s president as a result of the turbulent elections of 2004, this council – despite the decisive and energetic support of Crimean Tatar population of his candidacy during the election campaign – appears, in fact, not functioning.

Presently, the most acute social-economic grievances of Crimean Tatars relate to land issues. Tensions between them and the rest of Crimean population increased because of the lack of equal and just participation of the Crimean Tatar returnees in the process of privatisation, especially of land belonging formerly to collective farms. When privatisation of land has launched in Crimea, in particular, in its Southern coast – often in a very non-transparent and even illegal way – despaired Crimean Tatars resorted to a tactics of seizing some plots and erecting there some temporary dwellings, also to organising over the clock rallies and other actions of civic disobedience. Throughout 2004 – 2006, this has led to a number of conflict situations sometimes threatening to turn violent. The problem has been aggravated by the increased activity of pro-Russian political forces and public movements, also by Cossacks groups arriving in conflict areas from other parts of Ukraine but mostly from Russia. Topical remain also the persisting high level of unemployment, and still poor infrastructure in Crimean Tatar settlements. Rebirth of ethno-cultural identity of Crimean Tatars is extremely painful and difficult because the deportation destroyed all systems of support and development of Crimean Tatar national life, denied their right to teach children in mother tongue, to develop their own educational, cultural and religious institutions for almost 50 years. Currently, there are only 15 schools with Crimean Tatar language of instruction, whereas the level of long-lasting Russification endangers the very possibility of national revival.

Only a few newspapers in Crimean Tatar are issued in Crimea; TV broadcast is limited to several hours for a week, and the only Crimean Tatar musical-dramatic theatre has poor material base and numerous problems of financing its further activities. Recently, however, certain positive shifts have occurred at the Crimean peninsula: Crimean Tatar radio station is now broadcasting

every day on mother tongue, TV programmes have been extended, and number of schools and pre-school tend to increase in number. It should also be mentioned that state-funded expansion of broadcasting in Crimean Tatar language has been well supplemented by the private business endeavours: in addition to radiobroadcasting company “Meidan”, in September 2006, predominantly Crimean Tatar TV channel founded and owned by the local businessman Isa Khaibullaev, launched daily broadcasting, initially covering only several regions of Crimea but planning to spread to over 80% of its whole territory.⁴⁶ Both radio- and TV broadcasting include also some programmes in Russian and Ukrainian.

The most acute legal and political problem remains under-representation of Crimean Tatars in both elective and executive power bodies of the Autonomous Republic of Crimea. Such a situation prevents Crimean Tatars from effective participation in decision-making processes and therefore, presents a permanent source of dissatisfaction, confrontation and potential large-scale conflict. For example, after abolishment of a temporary quota valid for the elections to the Verkhovna Rada (parliament) of the ARC for the period between 1994 – 1998, no representatives of Crimean Tatar people were then elected into the highest representative body of Crimea. The purely majoritarian electoral system in the ARC provided no possibility to ensure them with a number of deputies at least commensurate to their percentage of the total population of Crimea (12.5 %). At the same time, both mixed and proportional electoral system as functioning for electing the Verkhovna Rada (parliament) of Ukraine had allowed Crimean Tatar people to have their two deputies – Mustafa Dzhemilev and Refat Chubarov – in the all-national legislature elected in 1998, and later on, in 2002 and 2006. In all of these cases, both Crimean Tatar MPs joined the legislature on national-democratic (Rukh, “Nasha Ukraina”) parties list.

One more unresolved problem concerns the yet undefined status of Crimean Tatar people, who, quite justly regarding themselves as a separate ethnos and/or a small nation having no other Motherland beyond the borders of today’s Ukraine, refuse to be recognised as an ordinary “national minority”.⁴⁷

Among the positive measures aimed to support former deportees from Crimea and redress their disadvantaged situation, beginning from 1991, certain funds are allocated from the state budget for their needs. During the previous 15 years, on capital 818,4 ml Ukrainian hryvnas were spent on capital construction (400,000 square metres of lodging had been built), 793 km of water-pipes, 1,144 km of electric power lines, 110 km of roads, 178 km of gas pipelines, also a number of objects of social-cultural infrastructure. The recent State Programme on settlement of Crimean Tatars and persons of other ethnicities, who returned for permanent residence in Ukraine, on their adaptation and integration, was adopted on 11 May 2006 for a period 2006 – 2010. Its main priorities consist of:

- Preparation of the consolidated register of the repatriates and members of their families
- Improvement of a system of the repatriates re-settlement while observing the necessity to preserve sensitive environment
- Construction and purchasing of buildings and apartments for the repatriates, opening of job opportunities, creating social/cultural infrastructure
- Ensuring basic infrastructure in places of compact settlement of repatriates.

⁴⁶ See “The first TV Channel in Crimean Tatar” by Valentina Samar, BBC, Simferopol, 01.01.2006, at http://www.bbc.co.uk/ukrainian/domestic/story/2006/09/060901_crimea_tatar_tv_sp.shtml

⁴⁷ “Indigenous Status” for the Crimean Tatars in Ukraine: A History of a Political Debate” by Natalya Belitsker, at <http://www.iccrimea.org/scholarly/indigenous.html>.

I.4 Security challenges and potential threats

This sub-chapter addresses minority-related security concerns which have been rooted in a history of the region, and in particular, in the post-Soviet space, where minority grievances were for a long time suppressed by the totalitarian regimes and became surfaced mostly after the end of the Cold War and collapse of the Soviet Union.

In the context of actual and potential ethno-political conflicts in the former Soviet Union, and their potential for triggering serious interstate or, more often, intrastate conflicts, majority-minority relations pose a serious threat to democratic development, regional stability and international security. After the demise of the Soviet Union, the disruptive consequences of the major political, economic and social transformations sweeping the region have created a variety of new threats to regional security. The emergence of 15 independent multiethnic states, confronting crises of state-building and economic transformation, aggravated by uncertain identities, contested boundaries, insecure minorities, and in many cases the hidden threat of Russian hegemony, poses a major challenge to national policies of ex-soviet countries, including successive realisation of their course on European integration.

Although the sources of the current conflicts are partly historical and partly the legacy of Soviet nationality policy, they have also been triggered or exacerbated by the impact of democratisation and liberalisation of economies. Thus, elite struggles over political power and resource distribution underlie conflicts that are often treated as purely "ethnic." Moreover, the dissolution of the Soviet Union provides an impetus to further unravelling and ongoing conflict insofar as it calls into question other boundaries and territorial arrangements in the region, and brings to the core fundamental discrepancy between the two internationally recognised norms: the right for self-determination and territorial integrity of the existing states.

Rejection of the "other" and oppression of minorities is deeply rooted in human history and human nature. It is related to some basic human instincts as the "we and them" feeling, the trust in the own group and the distrust of all outsiders, the tendency to affirm one's identity by denying the right of the other to his/her identity. It is a problem of all countries and of all times which, however, becomes especially prominent and painful during the transition from totalitarianism towards democracy.

I.4.1 Hungary

Hungarian experts – participants of the project – **did not see** any challenges or risks for their country caused by interethnic relations or minority claims by the time the research was finalised in Hungary – Spring 2007.⁴⁸

I.4.2 Moldova

In the RM and larger regional context, the main threats that emerge from interethnic controversies, alienation and other negative trends inherent in secessionist conflicts, are:

⁴⁸ However, recent events relating to the establishment in August 2007 of a paramilitary extreme right group the Magyar Garda (Hungarian Guard) and a lesser known groups like the "National Guardians", raised concerns and alarmed not only members of ethnic, in particular, Roma, communities, but also evoked sharp responses from the Hungarian government. In December 2007, every single member of the cabinet condemned the Hungarian Guard and the far right groups allied with it for voicing racist ideology and staging anti-Roma demonstrations, the government spokesperson's office said. (See, for example, "Cabinet condemns racist actions by paramilitary groups", "ERRC and NEKI Call for Action Against Racist Group in Hungary", European Roma Information Office - E-news - 13 December 2007).

- 1) *Atrocities* – refusal to recognise rights of minorities and oppression of minorities, also the fact that racism has led throughout history to extreme forms of crimes against humanity, ethnic cleansing, genocide etc.
- 2) *War* – inter-ethnic tensions can emerge into a war that often leads to a breakaway of certain territories from a sovereign state. This creates disturbance of society and leadership, humiliation of losing a country's part (usually of a strategic importance), and the intention of revenge.
- 4) *Forced migration* – flows of refugees, representing mostly the country's active population, leave the conflict zone in the search of safer areas and better conditions of living.
- 3) *Collapse of the state* – mutiny during the armed conflict between ethnic groups threatens collapse of the state;
- 4) *Smuggling* – separatist groupings are heavily involved in contraband smuggling. The trafficking of narcotics, arms and persons in the secessionist regions has gradually increased since the demise of the Soviet Union. As far as the illicit arms trade is concerned, great demand for weapons will remain until the secessionist conflicts are resolved and the influence of criminal actors is meaningfully reduced.
- 5) *Corruption* – (including the deals in illegal/shadow economy sphere) is known to extend high into the state hierarchy. Powerful actors on both sides have economic interests in delaying a resolution to the conflict, although the same forces have no desire of a resumption of hostilities. In short, strong forces have a stake in the status quo.
- 6) *Persistent economic and political instability in the region* – socioeconomic conditions, forced migration; illegal economic activities and the continued deficit of democratic governance are factors that favour economic and political instability in the region.
- 7) *Involvement in home affairs of the third side* – economic and political pressure on the state officials, foreign support for the self-proclaimed and unrecognized republics in the ex-soviet area preclude resolution of the conflicts and inhibit progress towards deeper integration and broader cooperation with the European political and economic structures. The security arrangements emerging in the region have a crucial impact on the prospects for interethnic and interstate conflict. Russia is clearly the preponderant military power in the region, and the Russian government has been seeking special peacekeeping rights in the "near abroad." At the same time, no other great power is likely to be in a position to send troops to the regions with ethnic disturbances. Under these circumstances, it is important to strengthen the role of international organisations such as the OSCE or the United Nations to ensure that Russian peacekeeping activities take place under their supervision, within the framework of appropriate guidelines, and that it not becomes merely an instrument of Russian domination.
- 8) *The Intractability of Ethnic Conflicts* - Protracted conflict creates severe obstacles to any peace-making process. Peacemaking is resisted even though for most of those involved, the economic costs of protracted conflict clearly outweigh any conceivable long-term economic benefit. In part, this is because leaders and agents of both sides, who must be key actors in any peace-making process, reap both political and economic benefits from the perpetuation of conflict, while passing the costs to others.

In addition, a differentiated approach to current conflicts is needed. The tendency to lump together all conflicts in the region as a generic problem of "national minorities" is a further impediment to understanding the different sources, causes, patterns and dynamics of these conflicts.

From the perspective of the Copenhagen School security concept, "social security concerns the ability to maintain, in the limits of certain acceptable conditions of evolution, the traditional elements of language, culture, identity and cultural and religious customs." In this context, we analyze the issue from the perspective of perception of the threats of majority population in the Republic of Moldova and that of ethnic minorities. In the first case, for a better understanding of the problem, we should consider Moldovans' situation in the USSR. We mean the intense

process of the Russification of the Moldovans that was, in fact, a suppression of their identity. The deportations to Siberia in the 40s of the previous century, the promotion of a policy of Russification by the Soviet regime, represented a serious threat to the Moldovan identity.

The end of the Cold War and the dismantling of the Soviet Union meant the appearance of new types of threats to regional stability and security. The USSR democratisation strengthened, meanwhile, the centrifugal movements that culminated in the so-called “sovereignty parade”. Some tendencies that have been annihilated by the Soviet regime erupted once the 15 former USSR republics declared their independence. The process of their gaining the independence was an extreme one, characterised by some ethno-political tensions, economic changes, border conflicts between some of the newly established states, problems connected with the consolidation of the sovereignty and independence of these countries, as well as Russia’s hegemony threat in the so-called “near abroad”.

On the background of the national movement in the Republic of Moldova that was aiming, among other goals, at joining Romania, the Moscow administration speculated on the problem of a possible assimilation of the minority ethnic groups in the republic by the majority population. The claim for the Romanian language and the pro-Romanian sentiments have been used by Moscow as a reason for inciting the Transnistrian conflict, making speculations over the idea of “violation the rights of Russian-speaking population”. All these tensions were fuelled by certain xenophobic messages from some groups. It is obvious, that the demand to return to the Latin alphabet and the truth about the identity of the Moldovans from Bessarabia triggered some tensions regarding the Transnistrian problem, but the conflict evolution clearly proves that it has a geopolitical character.

After signing the treaty concerning the peaceful conflict resolution in July 1992, Chişinău repeatedly reiterated the idea that it was ready to grant a quite large administrative and cultural autonomy to Transnistria. The reticence about this proposal proves once again the real character of the conflict. Moreover, the Transnistrian regime violates human rights, obstructing pupils from the region to study in school on the basis of Latin alphabet. In this context, it is worthwhile mentioning the problem of Gagauzians, – the ethnic minority living in the southern part of Moldova. This region is populated by Gagauzians, and the Soviet Union has also tried to use local population to prevent independence and sovereignty of the Republic of Moldova. Like in the case of Transnistria, Moscow tried to provoke a conflict between Chisinau and the region. Fortunately, the situation did not degenerate into an acute conflict. The problem of the existence of an ethnic conflict here is actually a far-fetched one, because the Gagauz population is threatened more by russification than by “romanization” as it was described earlier.

The situation culminated with the adoption, in December 1994, of the Law regarding the Special Judicial Status of Gagauzia. It granted the territorial autonomy to the region and the possibility to develop and preserve its ethnic identity. As it was said above, Gagauzians have obtained a large autonomy; however, there are some political leaders who speculate on the interethnic subject, asking for larger prerogatives for this region. In particular, this comment applies to Mihail Formuzal, who won at the Bascan’s (Governor’s) elections in December 2006. Such a situation bears a potential to raise further tensions between Gagauzian territorial unit and the rest of the RM.

There are three possible scenarios to improve relations between the majority population and ethnic minorities or immigrants: exclusion, assimilation and integration. Exclusion is a threat to a minority and means their isolation and limitation of their rights. This model wasn’t used in Moldova. Assimilation aims at total absorbing of the ethnic minority; it happens when the state does not recognize the ethnic minorities’ existence. Such a policy wasn’t implemented in

Moldova. Finally, integration supposes acknowledgement of and respect for diversity, and minorities are accepted as full-fledged members of the society irrespectively of different cultural base. The integration is the basic concept in the policy of the Republic of Moldova regarding minorities.

Speaking about the ethnic minorities in Moldova, we can say that their situation can be considered quite different from those in Central/Eastern Europe. With only few exceptions, Ukrainians and Gagauzians here study at schools and universities in Russian – i.e., Moldovan bilingualism for minorities means in fact their integration not so much into the majority mainstream environment but, rather, into the linguistic milieu of another – Russian – minority. This might be explained by the legacy of the former Soviet regime persisting, to some extent, because of the lack of specialists able to teach in Ukrainian and Gagauzian. At the same time, in different state institutions the functioning of the Russian language is going on practically under the same conditions as the Romanian language, also, the appointment of some governmental ministers who do not speak the Romanian language remain a widespread phenomena. Therefore, ethnic minorities' education in the spirit of Russian culture and in Russian language, thus generating pro-Russian attitudes among these entities, is not a surprise. Of course, everybody is free to have his own opinion, but this practice (education in the spirit of Russian culture and in the Russian language) entails in Moldova's society such a security concern as the lack of loyalty towards their own state. The unloyalty to the Republic of Moldova is more visible in Transnistrean conflict, where many Ukrainians, Russians, Gagauzians are, instead, loyal to the Transnistrean regime.

Despite these shortcomings, all the governments that ruled from 1991 have made significant efforts to consolidate Moldovan statehood, and it could be noted that throughout the process Chisinau has not used and cannot use the practices of the 18th-19th centuries regarding the creation of the nation state that is often pursuing the purpose to suppress or make homogenous some social identities, as we can see from different historical examples. But some of the implemented practices don't promote interethnic rapprochement between the majority and minority groups and, on the contrary, create a lack of understanding between them. Sometimes, ethnocultural development of ethnic minorities has led to the negation by them of the cultural and political identity of the majority. Many members of ethnic minorities do not pay much attention to the majority population's culture and do not learn their language, producing in such a way the phenomenon of self-isolation. Of course, the responsibility for this situation lays mainly on the Moldovan governments.

Concluding, it can be said that in the Republic of Moldova the reasons for the appearance of interethnic conflicts practically do not exist, but there are a lot of measures that have to be realised with regard to the improvement of interethnic relations. Moldovan administration should pay more attention to the promotion of the ideas of interethnic accord, mutual recognition and respect for diversity.

I.4.3 Romania

The inheritance of the late Ceaucescu era left an aggressive exclusionist rhetoric in state institutions, and in the political turmoil of the very early 1990's, electoral support of the leading elites was garnered on the grounds of a strongly anti-Hungarian (anti-minorities, in general) discourse. The RMDSZ and other Hungarian political actors were considered by political leaders and the Romanian secret service to be potential sources of threat. They were accused several times of affecting the integrity of the state or constitutional provisions (for instance, the fact that Romania is a „unitary and indivisible national state”). Several reports of the Romanian secret service (Romanian Service of Information - SRI) have focused on the „Hungarian question”.

This predisposition changed after the successor party of the former communist ruling party lost the elections in 1996 and a coalition of democratic parties take office, but not radically. The 1999 SRI report failed to enlist minority issues as matters of national security, focusing instead on economic issues (unfair competition on the market due to information leaks, corruption, fraud, etc), social issues (public safety in low income areas, increase of private surveillance and security companies infringing on individual rights and freedoms, also reluctant and corrupt judicial system), as well as external factors (organized crime, extremist groups' activity, affiliations to foreign terrorist groups, etc.) in the context of political (democratic) and economic (market-oriented) transition. However, the 2002 report refers to autonomist/regionalist movements, defining them as attempts to capitalize on social tensions, as well as a minor recurrence of "extremist, racist, nationalist-chauvinist, xenophobic or anarchist/antiglobalization" rhetoric in public space. Although these hints are not explicitly formulated vis-à-vis minorities, reference to the autonomist movement is an indication of the SRI's preoccupation with Hungarians in the "Szeklerland". In fact, in the 2003 SRI report, the autonomist movement in this region is named a "radical Hungarian" one, and the Intelligence, reporting on changes in the discourse of these "circles", at the same time is seeing them as stimulants to the apparition of the extremist/nationalist impulses.

Similar trend characterises the Romanian state's attitude towards Roma communities and their leaders. The representatives of Roma, as well as non-Roma human rights organisations are accused of being traitors if they inform international institutions on the violations of human rights of persons belonging to Roma communities. Official reports of the SRI showed that Roma leaders were in focus of their special attention at least up to the mid-1990s. Although this attitude has changed over time, the Roma are considered to be delinquent communities presenting a variety of threats to the social security of Romanian society: mass poverty, lack of literacy, uncontrolled childbirth, crime, epidemics, public safety, lack of social inclusion, etc. The 2004 SRI report mentions as a possible source of social destabilisation the dissatisfaction of Roma communities (along with mono-industrial communities) sprouted by delayed payments of social welfare.

The former presidential incumbent, Ion Iliescu, was blamed for his public statements in which he denied the Romanian Holocaust, also for tolerating anti-Semitic propaganda which presented the Jewish community in Romania (although counting well under 10,000 individuals, mostly elderly) as a continuous threat to the state security of Romania. Although the SRI has also reported on the activities of anti-Semitic (extremist) groups, these have resulted so far in no legal consequences. Other communities have not been targeted by xenophobic propaganda or state institutions as they are not considered to be a potential threat to state security. However, reports and studies issued by the SRI after 2000 reveal special attention aimed at the anti-Christian, in particular, Muslim-based movements in Romania, as well as at „Islamic terrorism” (in 2002, studies like „History of Iranian Mudjahedins”, „Islamic Fundamentalism in the Balkans – History and Present Reality” were published).

The new state security policy includes cooperation with civil society, considering human rights organisations to be potential partners in developing new public policies. According to the 2001 Strategy for the National Security of Romania (adopted by the Romanian Parliament on December 18th 2001), among other issues of national interest, policy makers sought to highlight the importance of „affirming and promoting national identity as part of democratic values; capitalisation on and developing the national cultural heritage and Romanians' capacity of creation”. In the last version of the Strategy for the National Security of Romania (published in 2006), Romania promotes its national interests also by „assuring the respect for human rights and fundamental freedoms, including the rights of persons belonging to national minorities, in accordance with the European standards.”

Although explicitly not stated, it is debatable to what extent the accession process and Romania's membership in the NATO have influenced the reformulation of foreign security policy. Annual reports of the Intelligence mention terrorism and the activity of terrorist groups as early as 1999, although these issues bear little significance given the lack of autochthonous terrorist groups. However, the reports increasingly focus on Romania's role as a host for cells and branches of international terrorist groups (Hezbollah, Hamas, Al Fatah, etc.), as well as related activities (human, narcotics and armament trafficking, money laundering, clandestine organizations, etc.).

I.4.4 Ukraine

Ukraine today, as well as many other European states, faces a number of potential risks and even threats, through the lens of ethno-political relations. Let us name the main of them, which define the framework of discourse and political prognosis:

Speaking on the potential minority-related threats to the national security of Ukraine, the widespread opinion or, rather, stereotype is that the first and foremost of them concerns the Russian national minority. Such perception has been formed partly by the activities, covered by media and Internet resources, of certain Russian and pro-Russian movements, NGOs and political parties of Ukraine, partly by sometimes aggressive rhetoric coming from Russia herself (references by Russian authorities of the necessity to protect Russians or "compatriots" in "near abroad", especially in Ukraine etc.). Moreover, in addressing the rights of Russian minority in Ukraine, Russia mostly refers to Russian speaking citizens of Ukraine (who in fact do not constitute a homogenous community but may have quite different political orientations and preferences). Besides that, ethnic Russians and russophones often draw special attention due to the sensitive history of Ukraine-Russia relations in the past and recent history. As was described earlier (see 3.4.1 of the given study), such fears and expectations are barely justified by the actual situation, since pro-Russian groups in Ukraine often keep the Soviet identity, still cannot overcome their attitude to USSR as their native state, and often extrapolate their attitude toward USSR to Russia. Consequently, a significant part of members of this part of Ukraine's population continue to perceive Russia as an "elder brother" (the term which was widely used by the Soviet propaganda).

Actually, purely linguistic preferences do not necessarily serve as an indicator of their ethnic origin. Mostly this group attributes are marginal social status, lower level of education, and therefore, a limited ability to adopt to independent Ukraine reality. But the very existence of Russia- or Soviet Empire-oriented citizens of Ukraine (whose number is bigger than ethnic Russian minority) gives Moscow the chance to use them as an instrument or pretext for interference into domestic affairs of Ukraine and a political leverage aimed at domination in the "post-Soviet space". The essence of described problems relates to some extent to the impotence of the Ukrainian authorities to reorient the Soviet Union or Russian Empire lovers, not in the fact that Russians constitute the majority of them.

However, on a large scale, due to natural processes, the number of those who have Soviet identity decreases, and it can be predicted that with more time to pass, this threat will completely lose its actuality. (This statement can be illustrated by the fact that the Ukrainian political parties, positioning themselves as pro-Soviet, are progressively losing their popularity amongst the Ukrainian electorate).

Another political project which deserves certain attention is the Eurasian project presented by Moscow. This project positions Kremlin as the leader on the Eurasian geographical and political space; this idea sometimes gets the support of a younger generation. But again – those who

support this idea are representatives of marginalised social groups, rather than Russian minority. Basically, it is only the coincidence that mentioned social group includes a lot of ethnic Russians who live in the industrial centres of Ukraine, obtained low education and work as blue-collar. However, recently, some “Eurasian” movements and organisations from Russia – in particular, the “Eurasian Youth Union” resorted not only to aggressive anti-Ukrainian rhetoric, but also to highly provocative actions – like destroying Ukrainian national symbols at the Goverla Mountain (the highest peak of Ukraine) in October 2007.⁴⁹

Speaking about the most visible (and heard of) pro-Russian oriented citizens of Ukraine (mostly either well paid provocateurs or Moscow agents in Ukraine), who established the network of pro-Russian movements in Ukraine, it should be noted that in Ukraine there are practically no moderate pro-Russian political parties or NGOs (such NGO as the “Russian Union of Priichernomor’ya”, that during the elections-2004 joined forces with the pro-Yuschenko movement, is rather an exception), able to cultivate the principles of interethnic peace and national consolidation. Instead, most of them resort to media and informational wars, are often using a “hate speech” addressing Ukrainians, Crimean Tatars, Jews etc. but, fortunately, all those notorious activities did not succeed in gaining any notable public support. On the other hand, ethnic Russians are well represented in the politics, business, state governing bodies, local administration and local self-government and have never been limited in their rights for cultural development. Therefore, it might be stated that in terms of norms and spirit of the international law, the rights of the Russian minority are safely protected.

One more important issue, which is to be addressed, concerns political reidentification in Odesa region, Bukovyna and Transcarpathia.

Quite understandably, pro-Romanian and pro-Moldovan ethnic and cultural sentiments of the population of these regions might turn into alienation from Ukrainian majority and provoke interethnic tensions in these regions. Moreover, political speculations of certain political parties of Ukraine leads to the fact that Romanian, Hungarian and Moldovan minorities are sometimes brainwashed and used as the instrument by politicians who object European and support instead Eurasian orientation of Ukraine.

Unfortunately, not only Romanian and Moldovan but also certain Ukrainian political groupings currently cannot focus on common European future of our states. Thus, instead of joint effort aimed at stabilisation and harmonisation of interethnic relations, the mentioned regions once and again witness historically burdened, often virtual, verbal conflicts on civil, official and interstate level.

The important subject of the mentioned processes is Moldovan ethnic minority, which tries to avoid being assimilated by both Ukrainians and Romanians. Actually, ethnic Moldovans are facing a complicated problem of defining the distinction between Moldovan and Romanian cultural identity. Ukrainian Moldovans quite often gain double and even triple citizenship, which allows them to improve their social status by means of labour migration to Romania and further on. As a result, Moldovan cultural identity might become mixed with the Romanian political identity. Moreover, the representatives of the Romanian community in Bukovyna, as well as certain political groups in Romania, widely reject the very existence of a separate Moldovan national identity. Such preconditions also affect the Moldovan community in the region.

Although this issue is mainly a matter of consideration of the official Chisinau, Ukraine is also concerned about this matter as bearing a potential for the minority versus minority regional tensions, which might turn into regional security threat. It is obvious that both minorities should

⁴⁹ See, for example, <http://www.rossia3.ru/ideolog/goverla>, <http://www.rossia3.ru/vandalotur>
<http://rutube.ru/tracks/230991.html?v=29106d0565e2d5c2c59da4dd1c94d671>.

develop a tolerant approach to each other based, ideally, on the application of universal principle of individual self-identification, also respect and loyalty to the Ukrainian majority in the region and elsewhere.

One more disputable issue, relating to ethnic self-identification, concerns Ruthenians (Rusyns).⁵⁰ In Ukraine, this issue was always highly politicised and had been perceived as a threat to the prospect of Ukraine's independence in late 80-s – early 90s because of its close connection with the recent policy of neo-Eurasian domination pursued by the Kremlin. Indeed, Rusyns' political leaders' rhetoric and statements are often aggressive and bear distinct anti-Ukrainian slant. According to the 2001 census, approximately 10,000 persons in Transcarpathian region admitted their Ruthenian national identity, although Ukrainian ethnologists, not to mention politicians, provide rather strong argumentation in favour of the view on Ruthenians as local sub-ethnos – similar to Huzuls, Boiky, Lemky etc. and not possessing the main characteristics of a separate ethnos. We should also take into consideration that this movement has been created and supported by a number of Russian politicians and enjoys great support and attention from some notorious movements and organisations from abroad – nowadays, for example, from “Proryv” (extremist “International Youth Corporation” initiated by the security services of the Moldova's separatist region – Transnistria).

Controversial Ruthenians/Rusyns question has also a distinct regional dimension. A rather complex history of the region that throughout the 20th century had been subjected to multiple changes in status and jurisdiction, imposed by several European states and empires, affected also all the sides participating in heated debates over the Rusyns identity in Ukraine and beyond. Speaking about the Rusyns community, it is sometimes noticed that it is only in Ukraine that Rusyns are not recognised as a distinct ethnic group. The fact of the recognition of Ruthenians as a separate ethnic group in some of the CEE states provides Ruthenian movement leaders with the additional arguments in their claims for recognising the Ruthenians as an ethnos separate from the bulk of Ukrainians. In this respect, it should be emphasised that in early 2007, the Transcarpathian oblast self-government passed a decision to recognise local Ruthenian community as a separate minority.⁵¹ Despite vigorous protests coming from certain political and academic circles, nothing dramatic had actually happened; moreover, the very acuteness of the Rusyns' problem seemed to disappear from the front pages, having attracted no more media attention as a potentially spicy or scandalous issue. In addition, Ukraine acquired a moral right to insist on observing the principle of self-identification by others, escaping in such a way the accusations of pursuing a double-standard policy.⁵²

Concerning the countries – participants of a given quadrilateral project – it should be noted that in both Hungary and Romania, no confrontation between the Ukrainian and Ruthenian communities has been recorded (in contrast to neighbouring Slovakia). However, while speaking of the regional context of this problem, one cannot omit the case of Moldova should not be omitted. In particular, the “prophets” of the Ruthenian movement in Moldova (e.g. Sergey Suliak) develop a special theory, according to which Ruthenians have much more in common with Russians than with Ukrainians.⁵³ This step can also be considered as aimed at splitting the Ukrainian minority of the RM – a project successfully implemented in several neighbouring

⁵⁰ For more details, see “Political and Ethnocultural Aspects of the Rusyns' Problem: A Ukrainian Perspective” by Natalya Belitser. Research paper prepared within the framework of the Programme on European Security (PROGRES) sponsored by the Centre for European Security Studies and the University of Groningen (the Netherlands). See also “The Ruthenian Communities in Poland, Slovakia and Ukraine” by Natalia Belitser, Dagmar Kusa and Kazimierz Krzysztosek, in: “Towards Shared Security: 7-Nation Perspectives”, Margriet Drent, David Greenwood, Peter Volten, Eds.; Harmonie Papers 14, October 2001, pp. 36-50. Publication by the Centre for European Security Studies (CESS), The Netherlands.

⁵¹ April 2, 2007, http://www.homin.ca/news_view.php?category=news&news=1306&lang=ua.

⁵² More information on Rusyns in Ukraine can be found at their own Internet resource www.rusyny.uz.ua.

⁵³ See “The debris of Saint Rus. Notes on the ethnic history of Moldovan Rusniaks” by S.G. Suliak (in Russian). Chisinau, “Tatyana” Editing House, 2004. 240 pp.

countries, in particular, in Slovakia. This move resulted in media speculations, including those concerning the emergence of the “Ukrainian/Ruthenian separatism” or the “fifth column” in the Republic of Moldova. However, the wide public remains mostly unaware of these developments, and an attempt to artificially create the “Rusyns problem” in the RM has actually failed.

It could be added that the terminological confusion has contributed to the complexity of the “Rusyns question”, especially in Ukraine. In particular, it is important to remember that previously, the name “Rusyns” was widely used to define the autochthonous population at the territory of contemporary Ukraine. For example, Norman Davies in his famous “Europe: A History”⁵⁴ uses the term Ruthenia (Ukraine) to define the whole territory covered by modern Ukraine. An impressive illustration of this can be found on page 857, where the author writes that: “Traditionally known as Rusyns, or Ruthenians, they (*this people*) turned now to the self-name “Ukrainians”, because that was their reaction to the wrong and humiliating label “Little Russians” invented for them by Czarism.”

This incomplete picture is a striking illustration of rather difficult and sensitive issues related to minority groups’ identities and self-identities, which are influenced by many factors including history, neighbouring nations, societal attitudes and state policies, politically motivated preferences etc. Since sometimes conflicting perceptions may lead to increased interethnic tensions, thus bearing a potential threat to regional security and stability, these issues should be addressed with the extreme cautiousness and delicacy, trying by all means to avoid imposing on this or that minority perceptions and/or status developed from the outside or from the “above”, – i.e., from state authorities or governmental institutions, and relying, whenever possible, on the principle of self-identity.

And last but not least important point is the issue of Muslims in Ukraine. At the all-European level, the existence of the Muslim minorities within a given country is often considered to be a potential threat to state and social security because of the raise of Muslim terrorist groups’ activities, especially after September 11, 2001. Therefore, from this point of view the significant Muslim minority in Ukraine,⁵⁵ the most visible of which are Crimean Tatars, might also be perceived as the source of a potential threat. Contrary to this negative perception, unique experience acquired by the Crimean Tatar national movement over decades of their peaceful, non-violent struggle for the right to repatriate was of great help not only for the effective continuation of this struggle after repatriation has become possible. It also greatly contributed to preserving peace and stability in Crimea and Black Sea region even in the most critical situations, when violent conflict seemed almost inescapable.⁵⁶ Strict observance of the principle of non-violence and denouncement of any acts of terrorism by political elite of Crimean Tatar people remain a decisive factor in keeping peace and preventing inter-ethnic clashes in our turbulent times following the tragic events of 11 September 2001.⁵⁷

Unfortunately, it does not mean that the situation in Crimea has been stabilised once and forever. Not only certain actual and potential threats persist, but during the last years, alarming negative

⁵⁴ This book is being quoted according to its Ukrainian translation published by the “Osnovy”, Kyiv, 2000. See, for example, such sentences as “after elimination of Cossacks autonomy, the historical difference between Russia and Ruthenia was officially abolished. Ukraine was named “Little Russia” (“MaloRossia”), and all traces of its separate tradition were wiped out” (p. 675).

⁵⁵ Although no precise counting of Muslims – or people of other religious denominations – have ever been undertaken, according to some estimations, in Ukraine may be up to 2 mln Muslims.

⁵⁶ See “UKRAINE’S STRATEGIC SECURITY – ON A CROSSROAD BETWEEN DEMOCRACY AND NEUTRALITY” by Alex Bogomolov. This paper was originally prepared for the Centre for European Policy Studies (CEPS) and presented at a CEPS-IISS-DCAF seminar on “Quid Ukraine’s Strategic Security?” held on 6 November 2006 in Brussels, then published on www.maidan.org.ua web-site.

⁵⁷ Ethnopolitical Conflict in the Autonomous Republic of Crimea: “Traditional and New Factors” by Natalya Belitser (in Ukrainian). Available at www.cidct.org.ua/uk/publications/Panchuk/8.html.

trends have become evident.⁵⁸ Among them, the appearance and enhanced activities of some Islamic radical religious groups – not inherent in the traditional Crimean Tatar version of Islam – can be named.⁵⁹ Although Mejlis leaders recognise them as security threats and often address both Crimean and Ukrainian authorities, calling for counteracting these trends more decisively, no adequate responses have yet followed. Another cause of deteriorated interethnic relations in Crimea is increasingly aggressive activities of some pro-Russian – or Russia-based – chauvinist groupings notorious for not only highly provocative rhetoric and hate speech, but also for perpetrating crimes against members of non-Slavic minorities. These crimes usually remain unpunished and even not recognised as such, being instead characterised by local law-enforcement bodies as just “hooliganism”.⁶⁰ Recent violent events of early November 2007 in Simferopol and the Ai-Petri mountain, when Crimean Tatar residents and entrepreneurs have been targeted and severely beaten by militia and special “Berkut” troops, fuelled serious unrest and indignation among the Crimean Tatar community of Crimea. Impunity for perpetrators, as well as inability of central authorities to investigate objectively and justly the mentioned incidents and their immediate and prospective consequences, gives rise to many concerns as to the possible development of much more radical mood among Crimean Tatar population – especially its younger part, – also the position to be taken by the Mejlis of Crimean Tatar people. In order to not lose the authority and support of the community, Mejlis leaders may be forced to resort to more serious measures of civic disobedience, and call Crimean Tatars for different actions of large-scale mass protests. In this context, it is very illustrative that for the first time throughout the potential conflict in Crimea, Mustafa Djemilev, Chairperson of the Mejlis and charismatic national leader of the Crimean Tatar people, highlighted that those recent events and the lack of adequate responses from both local and central authorities may indeed result in the inciting of Chechnya-like situation in Crimea.

These developments paved the way for a new wave of suspicions and accusations, suggesting the existence of Crimean Tatar “terrorist groups” operating in Crimea. Although the chief of the Security Service of Ukraine (SBU), heading at the same time the Ukrainian Anti-Terrorist centre, immediately disproved these rumours and underlined that actual grievances do exist, and therefore, the claims put forward by Crimean Tatars and their leaders are fully justified,⁶¹ the tensions on the peninsula – both home-made and fuelled from the outside – persist and might indeed be characterised as a problem of national security. Hopefully, the new Ukrainian government formed following the early parliamentary elections on September 30, 2007, would demonstrate more wisdom and more sensitivity to the continued discrimination and plight of the Crimean Tatars and other vulnerable minority groups in Crimea, than it was done by previous central and local authorities, dominated and fully controlled by the “blue-white” government headed by the prime minister Victor Yanukovich.⁶² Indeed, on 24 December 2007 – just a few days after the appointment of the new Minister of Interior Yuri Lutsenko, his promise to fire the heads of Crimean militia, – including Major General Anatoliy Mohilyov whom the Crimean Tatars personally blame for illegal use of force and weapon by the “Berkut” special unit during developments on the plateau of the Ai-Petri mountain – was fulfilled. Moreover,

⁵⁸ See “The Imperial Knot of Crimea” by Ostap Kryvdyk, 05.02.2007, 15:25, at <http://www2.pravda.com.ua/en/news/2007/2/5/7057.htm>.

⁵⁹ See “A lesson in stifling violent extremism” by Waleed Ziad and Laryssa Chomiak, The Christian Science Monitor, 20 February 2007, available at <http://www.csmonitor.com/2007/0220/p09s02-coop.html>.

⁶⁰ See: UKRAINE: AN OVERVIEW OF THE CRIMEAN QUESTION AT THE 63RD ANNIVERSARY OF THE CRIMEAN TATAR DEPORTATION by Idil P. Izmirlı. Action Ukraine Report, #851, June 1, 2007.

⁶¹ Interview given on 18.12.2007, placed at <http://www.obozrevatel.com/news/2007/12/17/206916.htm>.

⁶² See for example, “New Interior Minister Yuriy Lutsenko promises Crimean Tatars' Majlis Head to shortly analyze work of leadership of Crimean militia”. Ukrainian radio, 19.12.2007, available at <http://www.nrcu.gov.ua/index.php?id=148&listid=57386>

Mohilyov's successor confessed to journalists that he "feel ashamed for cruel beatings of Crimean Tatars, and for the actions of militia during the Ai-Petri events".⁶³

It should be added that for interethnic tensions on the Crimean peninsula is not limited by the "Muslim factor" or the problem of resettlement and integration of former deportees – Crimean Tatar people and members of Armenian, Bulgarian, German and Greek national minorities. From the very beginning of the emergence of sovereign Ukraine, harsh statements and angry cries about a "forceful Ukrainiasation" of Crimea have been circulated, supported and actively spread by local and Russian media. How far from the reality these claims are can be easily demonstrated by the mere fact that for today, there are only seven Ukrainian schools in Crimea (also 15 Crimean Tatar schools, the rest of over 500 local secondary schools still use Russian as the language of instruction), whereas ethnic Ukrainians constitute one quarter of the whole population of the ARC. This disproportion, also a high competition for entering Ukrainian schools, naturally result in the disappointment and numerous complaints issued by Crimean Ukrainians and local branches of a number of all-national political parties. Nevertheless, the recent presidential decree about improving the humanitarian sphere in the ARC and the city of Sevastopol, aimed, *inter alia*, at redressing this imbalance and promoting Ukrainian language and education in Crimea, ensued vigorous protests of the pro-Russian chauvinist movements and organisations, reanimating once again the thesis of "forced Ukrainisation of Crimea".⁶⁴ This situation has been aggravated by rather harsh statements on the side of high level Russian officials, accusing Ukraine in such "sins" as "open nationalist, anti-Russian, and Russophobic feelings and developments in Ukraine."⁶⁵ At the same time, the above mentioned decree has met understanding and support of the Mejlis of Crimean Tatar people, recognising that actual situation of ethnic Ukrainians in Crimea corresponds to that of "minority within a minority",⁶⁶ and therefore, needs application of all mechanisms for the protection of minorities operating at national level.

Summarising the above mentioned we can come to the following conclusions. On the one hand, the level of political tolerance expressed by ethnic minorities towards the Ukrainian majority and *vice versa*, is quite remarkable and deserves to be considered a good practice of peaceful coexistence within the framework of the Ukrainian state. On the other hand, it should be noted that there is a certain deficit of awareness, pertinent to both political leaders of the state and the leaders of minorities, of the necessity to pursue and ensure peaceful coexistence, mutual solidarity, harmonisation of interethnic relations (minority vs. majority as well as minority vs. minority), and never use ethnic tensions, conflicts of interest and/or misunderstandings as a political leverage (especially during the election campaigns), in order to avoid destructive influence on the national and regional security and stability.

⁶³ Information from 28 December 2007 by Leonid Ivanov, at <http://obkom.net.ua/news/2007-12-28/1426.shtml>.

⁶⁴ See, for example, <http://www.radiosvoboda.org/article/2007/11/4e9b0fe4-198a-42dc-8a5e-e89673442d30.html>, 21 November 2007.

⁶⁵ A statement by Russian Ministry of Foreign Affairs (of 14 December 2007), see "RUSSIA, UKRAINE TRADE HARSH WORDS OVER HISTORICAL MEMORY, Moscow condemns "anti-Russian" attitudes in Kyiv" by Taras Kuzio, Eurasia Daily Monitor, Volume 4, Issue 233, December 17, 2007.

⁶⁶ About this definition and legal grounds, see "Minority within a minority: what it is?" by Natalya Belitser (in Ukrainian), Kryms'ka Svitlytsa, #42, 17.10.2003.

PART II

Legislation and State Policies

II.1 National Legislations and State Policies

In general, nation states, especially in Central and Eastern Europe since their emergence often have had rather tense relations with the ethnic/national minorities under their jurisdiction. The social, political, and economic changes that have accelerated and deepened as a result of the end of the Cold War made these tensions and violent conflicts (exemplified by the new Balkan wars) more visible, and a more challenging topic for social scientists. Nevertheless, after the end of Second World War with the worldwide shock caused by the Holocaust, as well as after the end of Cold War and removal of the iron curtain, it became more difficult for the national governments to implement violent policies of open oppression of minorities.

Besides that, the concepts of 'minority rights' and 'cultural rights' gained world-wide acceptance and their implementation attracts wide public attention and support. Those governments that violate human rights or minority rights feel the pressure and might even face sanctions from the most important and authoritative international organisations like the UN, Council of Europe, OSCE and the European Union.

Although national consolidation and cohesion is a very basic goal for every national government, today it does not presuppose either forcible assimilation or any kind of oppression or minorities' rights jeopardising. The existence of national minorities is no more considered to be a challenge for a democratic state. Moreover, the promotion and protection of human rights, including the rights of minorities, contributes to political and social stability and the progress of states in which they live. At the same time, representatives of national minorities, as all other citizens, have to respect national legislation and rights of others, including persons belonging to the majority or to other minorities.

In this regard, documentation and easy accessibility of data on matters relating to national and ethnic minorities rights has become increasingly important. Over the last years, codification of minority rights in Europe, including in the enlarged European Union, and the establishment of international instruments such as the Framework Convention for the Protection of National Minorities and the European Charter for Regional and Minority Languages of the Council of Europe have contributed to a greater awareness of the importance of cultural diversity and minority issues. The peaceful settlement of ethnic disputes is recognised as a vital factor for stability, particularly among the new EU states and European Union accession and candidate countries.

However, the national legal standards on minority protection differ greatly from state to state. In spite of numerous existing databanks, not only collecting of the comprehensive information but also the efficient comparison of the national legislations of different states remain difficult tasks which are, nevertheless, necessary to fulfil for identifying both "good practices" and shortcomings (to be avoided).

The subchapter below is, therefore, an attempt to collect the national legislative provisions in the four countries – participants of the project – which deal with national minorities' rights, and to compare them in order to define some drawbacks but also the good practices which might be of added value for furthering of the appropriate national and regional legislation.

II.1.1 Hungary

At the end of 1980s, in a totally changed international and inner political environment, it became quite obvious for the main actors of the political decision-making processes that the earlier prevailing concepts of minority policy were just insupportable and needed to be generally revised. The previous Communist regime officially acknowledged only one common social interest and did not really tolerate representation of different social interests expressed by particular social groups and actors. There were only six officially recognised minorities (Croats, Germans, Romanians, Serbs, Slovaks, Slovenes) that had their own organisations in the most of that period (Southern Slavs had to have a common one), but those could only support educational and cultural activities, publish newspapers and books, whereas the effective participation in public affairs and political representation, as well as enforcement of separate minority interests did not and could not be pursued. Therefore, the existing minority organisations also had to be transformed into democratic civic alliances, while new ones were to be founded in order to represent minority interests, thus contributing to shaping new minority-related state policies, particularly in view of the EU accession process that demanded, *inter alia*, to comply with Copenhagen criteria.

Constitutional provisions

The fundamental changes in minority policy soon appeared in the 1989-90 generally revised Hungarian Constitution (Act 20 of 1949).

In the amended Constitution, “the people” is declared to be the bearer of sovereignty but at the same time, the text does not really refer specifically to national and ethnic composition of the country’s population. The notion “people” is ethnically quite neutral, and in different parts of the Constitution there is no mentioning of either the Hungarian majority or the Hungarian nation. The Hungarian majority appears only indirectly in the text where the minorities are said to be the constituent part of the state (without mentioning ethnic Hungarians directly). In particular, Article 68 stipulates that:

(1) The national and ethnic minorities living in the Republic of Hungary participate in the sovereign power of the people: they represent a constituent part of the State.

(2) The Republic of Hungary shall provide the protection of national and ethnic minorities and ensure their collective participation in public affairs, the fostering of their cultures, the use of their native languages, education in their native languages and the use of names in their native languages.

(3) The laws of the Republic of Hungary shall ensure representation for the national and ethnic minorities living in the country.

(4) National and ethnic minorities have the right to form local and national bodies for self-government.

In Paragraph 2 of Article 68, the amended Hungarian Constitution ensures extended, both individual and collective, rights (participation in public life, fostering cultures, use of languages, education in the mother tongue, use of minority names) for the so-called national and ethnic minorities. Unfortunately, the attempt of establishing minority representation in the Hungarian Parliament failed in 1990, so it has remained the main political-legal demand of the minorities. Although the Constitution (Art. 68(3)) provides a general right for representation, in practice it relates only to the minority self-government system foreseen by paragraph 4, – a rather weak substitute for the ensured election of minority MPs. As a kind of compensation, the Parliament has established the institution of ombudsman for national and ethnic minority rights with office that has been filled since 1995.⁶⁷

⁶⁷ The main relevant amendments are: Act 31 of 1989 on the amendment of the Constitution of the Republic of Hungary; Act 40 of 1990 on the amendment of the Constitution of the Republic of Hungary; Act 63 of 1990 on the amendment of the Constitution of the Republic of Hungary.

Besides that, the Constitution does not determine an official language either, so the extended use of Hungarian in public life is rather *de facto* than *de jure*.⁶⁸ Just like several other Central-European constitutions, the Hungarian one also has a special clause claiming the Republic of Hungary's responsibility for the Hungarian minorities living outside the borders and support for the maintenance of their connections with Hungary.

Legal subjects

The most serious problem faced by the decision-makers and experts was the determination of legal subjects during the formulation of minority law. The core problem rooted in the fact that minorities refused any kind of registration which would have been needed for an effective cultural autonomy, – including the mechanisms to have legitimate elected bodies. Therefore, some other solutions had to be found; as a result, the enacted original Minority Law of 1993 had three fundamental elements: the definition of national and ethnic minorities, the list of thirteen minorities and the list of fourteen minority languages. The Jews were finally not acknowledged as a national or ethnic minority, but a mechanism has been established in order to supplement these lists in the future. According to it, a new minority must meet certain legal requirements and must collect at least one thousand Hungarian voters' signatures.

According to Article 1 of the Minority Law, *„national or ethnic minority (...) is any ethnic group with a history of at least one century of living in the Republic of Hungary, which represents a numerical minority among the citizens of the state, the members of which are Hungarian citizens, and are distinguished from the rest of the citizens by their own language, culture and traditions, and at the same time demonstrate a sense of belonging together, which is aimed at the preservation of all these, and the expression and protection of the interests of their communities, which have been formed in the course of history.”*

Article 61 defines *„the following ethnic groups [...] as ethnic groups native of Hungary: Bulgarian, Gypsy, Greek, Croatian, Polish, German, Armenian, Romanian, Ruthenian, Serbian, Slovakian, Slovenian and Ukrainian.”*

Article 42 stipulates that *„the following languages are deemed languages used by minorities: Bulgarian, Gypsy (Romani and Beash), Greek, Croatian, Polish, German, Armenian, Romanian, Ruthenian, Serbian, Slovakian, Slovenian and Ukrainian.”*

The Hungarian citizenship is a precondition to practise the ensured minority rights, so the legal subjects do not include the citizens of other states, refugees, permanent residents having no Hungarian citizenship etc.

But the lack of lists of registered voters and the freedom of choosing identity soon resulted in a situation when any Hungarian voter got the right to vote and be elected in the minority self-governments, thus compromising the framework of minority representation and the protection of their interests in a period between 1994 and 2006.⁶⁹ This situation later caused legal abuses, namely the particular phenomenon called “ethnobusiness” which means that certain persons elected into national minority self-governments often did not even belong to the given

⁶⁸ HALÁSZ Iván: A nemzetfogalom nyelvi-kulturális elemei a modern demokratikus alkotmányokban és jogszabályokban [The linguistic-cultural elements of the nation-concept in the modern constitutions and laws]. *Állam- és Jogtudomány*, 2002/3-4. 228 p.

⁶⁹ See Act 61 of 1994 on the amendment of Act 20 of 1949 on the Constitution of the Republic of Hungary.

community. This led to the 2005 amendment which has established minority electoral lists containing both minority voters and candidates.⁷⁰

Antidiscrimination

The prohibition of discrimination was a basic element of minority protection which appeared in the Hungarian Constitution. The above mentioned general 1989 amendment declared that the Republic of Hungary ensures human and citizens rights for every person staying in its territory without any kind of distinction. Namely it prohibits any kind of differentiation relating to race, colour, gender, language, religion, political or other opinion, national or social affection, property, birth or other situations.⁷¹ Furthermore it declares the equality before the law and the men' and women' equality.

In compliance with these constitutional provisions, several laws in different sectors declared the prohibition of discrimination (e. g. laws on minorities, education, media, employment, army, court, cultural activities, different legal procedures etc.) but they do not define the notion of discrimination, do not form a unified system and do not contain effective punitive sanctions.⁷² The latter point is of special importance in connection with the possibility to punish for hate speech.

In the history of the Hungarian regulation of antidiscrimination it was quite determinative when the European Council issued the Council Directive 2000/43/EC of implementing the principle of equal treatment of persons irrespective of racial or ethnic origin in June 2000. The directive could be interpreted in such a way that a special law against discrimination would be needed to formulate until the 2004 enlargement. The new law was finally enacted at the end of 2003 and it must be enforced both in public life and in private sphere to a limited degree. It declares the prohibition of three types of discrimination (direct, indirect, and troubling) and holds out the prospect of punishment. Another positive element is that civil organisations can also take part in relevant legal procedures. The above mentioned law has also established a public authority to deal with discrimination cases.⁷³

Finally it deserves mentioning that equal opportunities is a constitutional principle in Hungary, and that the 1993 Minority Law also ensures the right for both political and cultural equality, while the state must promote the realization of these principles in practice.

The issue of compensation

In the spring of 1990 the Hungarian Parliament accepted several determinant resolutions concerning the condemnation of antidemocratic and extremist occasions of the 20th century. One of them declared that the resettlement of the German minority after WWII was an unjust procedure which severely violated basic human rights, exhibiting also the unacceptable 'collective guilt' approach.⁷⁴ At the same time another resolution was passed on the reparation of injuries for those people who were deported or had to suffer from other forms of discrimination

⁷⁰ Act 114 of 2005 on the election of minority self-government representatives and on amendment of certain laws concerning national and ethnic minorities.

⁷¹ See Act 31 of 1989 on the amendment of the Constitution.

⁷² KISS Barnabás: *Az egyenlő bánásmód elvének és a hátrányos megkülönböztetés tilalmának jogi szabályozása [The legal regulation of the principle of equal treatment and the prohibition of discrimination]*. Szeged, 2003. (Acta Universitatis Szegediensis. Acta Juridica et Politica. Tomus LXII. Fasciculus 12.) 35. p.

⁷³ Act 125 of 2003 on the equal treatment and the promotion of equal chance. 362/2004. (26th December) Governmental decree on the Authority for Equal Treatment and the rules of its procedures.

⁷⁴ 35/ 1990. (28th March) Parliamentary resolution on the reparation of collective injuries of the German minority.

between 1938 and 1945 because of their racial and national affiliation or Anti-Nazi attitudes. The latter held out the prospect of compensation for these people (Parliamentary Resolution 34/1990 of 28 March 1990). One more resolution said that those who were carried off to the Soviet Union and sentenced by Soviet judges unfairly and later acquitted must be also compensated (Parliamentary resolution 36/1990 of 28 March 1990). The last concerning resolution said that compensation must be granted for those who were unfairly imprisoned between 1945 and 1963 (Parliamentary resolution 37/ 1990 of 28 March 1990).

But the realization of the promised compensation soon became a subject of political debates which resulted in the concept of partial compensation. This meant that the Hungarian procedure did not restore the confiscated properties but issued recompensation vouchers which could be exchanged for real properties. The first concerning law (Act 25 of 1991) was about the compensation of injuries that happened only after 8 July 1949. That legal regulation led to German minority leaders and activists disappointment, because this period did not include the Germans' resettlement and the confiscation of certain German properties and real estates. That is why the second law (Act 24 of 1992) complemented the recompensation procedures extending them to the period of 1939-49.

Freedom of religion

The freedom of religion is a very basic and complex minority right which consists of different elements, namely the prohibition of discrimination regarding religious affiliations, the establishment and maintenance of religious institutions, and religious activities on minority mother tongue. According to the amended Constitution, the Republic of Hungary is a religiously and ideologically neutral state and ensures both the liberty of conscience and the freedom of religion. The latter means that everybody has the right to choose and to accept freely a religion and belief. Moreover, everybody is able to confess, to practise and to teach religion either individually or together with others through religious activities and ceremonies.⁷⁵ In connection with these constitutional provisions the 1993 Minority Law grants the right to demand for ceremonies arranged in minority languages.

Regarding the targeted minorities, the Ukrainians belong to either the Orthodox or to the Greek Catholic denomination, and the Romanians living in Hungary have their own national local church.

Use of language

As already mentioned, the amended constitution does not codify the Hungarian as an official language on the one hand, on the other hand it grants the right to use minority languages; the 1993 Minority Law has a separate chapter concerning this issue. The latter declares that anyone can use minority languages whenever and wherever he/she wants to, and to do so in both public and private spheres. Regarding these legal regulations, the laws on civil, criminal, and public administrative procedures codified the possibility of the use of languages.⁷⁶ The inner ordinance of the Hungarian Parliament stipulates that minority MPs can make speeches in their mother tongue.⁷⁷ Minority languages can be officially used on local level including the representative bodies of municipalities as well but only if the minority self-government provides the reasons for this.

⁷⁵ See Act 20 of 1949 on the Constitution of the Republic of Hungary, § 60.

⁷⁶ Act 3 of 1952 on the civil procedures. Act 19 of 1998 on the criminal procedures. Act 140 of 2004 on the public administrative procedures.

⁷⁷ 46/ 1994. (30th September) Parliamentary resolution on the Inner Ordinance of the Parliament of the Hungarian Republic.

It should be emphasised that the whole Hungarian Minority Law is lacking both proportional and numerical approach which is widespread in other Central and Eastern-European countries. It means that legal regulations do not determine exact proportions or numbers of people, – the data which would have been some kind of precondition for practising different rights. For example, bilingual or multilingual inscriptions can be easily placed in settlements regardless to local proportions or numbers of people belonging to certain minorities.

In spite of positive elements of the minority-related legislation, no comprehensive law concerning the use of languages was enacted in Hungary; instead, minority concerns could rather be solved by addressing different sectoral laws (army, law enforcement etc.). To some extent, the absence of a law on use of language can be redressed by the European Charter for Regional or Minority Languages that was signed in 1992 and ratified three years later. But according to the ratification document, only six languages of the acknowledged fourteen could benefit from it, namely, Croat, German, Romanian, Serb, Slovak and Slovene.⁷⁸ The minorities whose languages are protected in such a way are the ones territorially concentrated, and which have already established the extended networks of educational and cultural institutions.

In connection with the use of language the question of minority names also emerges. Since 2002 there has been a possibility to register officially minority names (both first and surnames) and to correct Hungarian version to minority one.⁷⁹

Representation in public administration

For the minorities the Hungarian law grants the right for a collective participation in public life but does not make it compulsory to be realised in either public or local administrations. Only two laws ordered that persons with minority language skills should be employed under certain conditions regarding local minority population. These job positions are those of public notaries (Act 41 of 1991) and judicial executives (Act 53 of 1994).

The issue of cultural heritage

As was already mentioned, the amended Constitution grants the right to foster minority cultures in Hungary; this right was further elaborated in more detail in the 1993 Minority Law. This law declared that the minority cultures are organic part of the culture of Hungary. The minorities have the right to learn their cultural heritages, to promote and develop them. In this field the minority self-governments involvement is vitally important, mainly through the establishment and maintenance of independent minority institutions. It is also declared that civic organisations can carry out cultural activities and can found and maintain cultural institutions. The national minority self-government is entitled to establish and support minority theatres, museums, libraries and publishing houses, also national cultural, artistic, and scientific institutions. The 2005 general amendment of the Minority Law aims to improve the conditions of establishment, maintenance and takeover of minority institutions. It is very important that for the local governmental decisions which deal with minority cultures issues, as well as for the appointments of the appropriate candidates for the leading positions at the abovementioned institutions, the approval of the minority self-government is needed and public opinion is to be considered.

⁷⁸ See 35/ 1995. (7th April) Parliamentary Resolution.

⁷⁹ Act 45 of 2002 on the amendment of 17/ 1982. Law issued by the Presidential Council on the registers of births, marriages and deaths, matrimonial procedures, and use of names.

Minority names can appear on identity cards as well. See 168/1999. (24th November) Governmental decree on the issuing and registration of identity cards.

Publishing of books and periodicals prepared by or for minorities is also the state's responsibility.

The Law on Culture enacted in 1997 made it compulsory for local governments to support local cultural activities including promoting minority heritages.⁸⁰ The 2001 Law on Cultural Heritage also declared that the material objects belonging to heritage of national and ethnic minorities living in Hungary, must be protected.⁸¹ According to another Decree, the relevant traditions of minorities should be respected also in the framework of protection of cemeteries in Hungary.⁸² It is worth mentioning that the Hungarian cultural institutions operating abroad have the task to promote Hungarian minority culture and education as well. They must also maintain connections with institutions operating in the interests of minorities living in Hungary.⁸³

Media

In this field the 1993 Minority Law obliged both the public television and radio to prepare and to broadcast regularly "minority programmes". That is why according to the Hungarian Media Law, enacted in 1995, one representative of each minority must be present in the supervising bodies of public television and radio. Moreover, the state has to promote the broadcasting of kin-states programmes. The Minority Law also encourages the minority self-governments to take part in the activities relating to minority media development. The above mentioned media law declared the prohibition of programmes and expressions that might stir up interethnic or minority-targeting hatred. It also codified public services that should appreciate minority values, foster minority cultures and languages, and inform regularly in minority languages.⁸⁴ In addition to these legal regulations, the only public news agency operating in Hungary should also regularly and objectively inform about the activities and important events in national and ethnic minorities lives.⁸⁵

Education in minority languages

The right to take part in minority education carried out either in minority language or bilingually was originally granted by both the amended Constitution and the Minority Law. As a realization of their collective rights, minorities can initiate the institutions of elementary, secondary and higher education. According to the abovementioned law, minority classes or groups must be established at eight parents' request. The different types of minority education can be realized in kindergartens, schools, classes and groups. In these educational institutions information on certain minorities, the history of both the minority and the kin-state, the cultural values, traditions, and the Hungarian language shall be taught. It deserves noting that the Minority Law made it possible for the minority self-governments to take part in solving minority educational issues and to take over and support different institutions. The state should take care of the minority teachers' education and training. Unfortunately, one of the regulations has led to a kind of abuse, namely the law declared that for the disadvantaged Roma/Gypsy children special educational forms could be established in order to decrease these social disadvantages.

Regarding minority education, the thirteen minorities officially acknowledged in Hungary can be grouped into three categories. Firstly, the Croats, Germans, Romanians, Serbs, Slovaks, and

⁸⁰ Act 140 of 1997 on museums, open library services, and public education.

⁸¹ Act 64 of 2001 on the protection of cultural heritage.

⁸² Act 43 of 1999 on the cemeteries and funerals. 230/ 1997. (12th Dec.) Governmental decree on the regulations of protecting different kind of monuments.

⁸³ 11/ 2000. (8th Feb.) Governmental decree on the cultural institutions operating abroad.

⁸⁴ Act 1 of 1996 on broadcasting radio and television programmes.

⁸⁵ Act 127 of 1996 on the national news agency.

Slovenes had educational institutions before the change of the system. These communities can carry out minority education in different forms:

- Using minority language as a language of instruction, complemented by the compulsory teaching of Hungarian language,
- bilingual type (both minority and Hungarian languages are used),
- the most popular form is that with Hungarian as the language of instruction but the minority language is also taught.

Secondly, other minorities, including the Ukrainians, who have more limited possibilities. In their cases, special complementary education can be organised to learn minority language and culture.

The third category includes the Gypsy whose special situation needs much more attention from both state bodies and society at large in particular in the sphere of education with a special emphasize on the preservation and development of Gypsy cultures and teaching Gypsy languages.

The Hungarian Specifics: Representation – the minority self-government system

According to the initial 1993 Minority Law, three types of local minority self-governments were to be created in order to represent and defend minority interests in public life: minority settlement self-government could be formed when the majority of elected members of local self-governments were represented by the minority candidates. This type of territorial autonomy was mainly for those few settlements where the minority population is the local majority. The second type could also have been established in an indirect manner: one-third of deputies elected as minority candidates could then have formed indirect minority self-government within the framework of the local self-government. The third and the most popular type on the local level was based on the direct elections, in which any voter could have participated, not only the members of the minority population. The elections were organised on the same day and in the same places where local self-governments were also elected. The territorial level of minority self-governments was allowed only in Budapest in 1994. In the capital city minority self-governments could be formed indirectly in the same way as the national ones. Both the metropolitan and national bodies were established indirectly, mostly by representatives of the local minority self-governments who could vote in a single majority system.

Regrettably, during the preparation of the Minority Law the rights and competences of minority self-governments were narrowed, their possibilities decreased and the real cultural autonomy remained a promise for the future. Few years later it became quite obvious that it was much more important to introduce a viable and coherent minority self-government system than to elaborate the detailed conditions of its functioning. Experts and minority actors often criticise these organisations as being ‘self-governments’ only by name but not in the essence. The elections of minority self-governments were also controversial: on the one hand, the number of minority self-governments increased from one term to the other, but on the other hand these elections were accompanied by a number of undesirable incidents and tendencies.

The increase in the number of local self-governments, as well as their raising self-estimation might be assessed as a positive trend. The latter seems to be confirmed by the latest census that showed a growing number of people belonging to certain minorities. Nevertheless, the emerging problem of already mentioned “ethnobusiness” still has to be considered.

As a result of the 2005 general amendment the whole minority self-government system went through fundamental structural changes implemented during and after the 2006 elections. From

that time on, the prospective minority candidates had to make a statement about their ethnic affiliations. The amendment eliminated the indirectly elected forms of minority self-governments on local level, so this time they are to be established only directly. This solution makes it more difficult to enforce minority interests towards local self-governments. According to long-pursued minorities' desire, the new institutions of territorial/ regional minority self-governments have been elected indirectly in a proportionate voting system firstly in March 2007. On national level, the elections have remained indirect but a proportionate voting has been installed in order to represent, enforce and discuss different interests within the same community. It is quite important mainly for such internally divided communities as Armenians, Roma/Gypsies, and Romanians.

The amendment consolidated the rights and competences of the minority self-governments. It has determined in detail the conditions of their functioning, has regulated wider exercises of their rights and made economic activities of these organisations more transparent. These and other legal changes in the recent past have established the conditions of formation, takeover and maintenance of minorities own educational and cultural institutions. Favourable shifts that have occurred in this field can make us more optimistic with regard of evolving an extended and effective cultural autonomy in Hungary.

II.1.2 Moldova

The collapse of the totalitarian USSR regime, which resulted in the proclamation of the sovereignty (June 23rd 1990) and of the state independence (August 27th 1991) of the Republic of Moldova, envisaged the necessity to create a legislative framework aimed at the protection of the ethnic, linguistic and religious minorities based on the European and international standards, assuring their right for freedom of speech, to keep and maintain their ethnic, cultural, linguistic and religious identity freely, to maintain and to develop their own cultures in all forms.

Therefore, starting with declaring its sovereignty and independence, the Republic of Moldova developed and improved a legislative framework for regulating interethnic relations and ensuring national minority rights in order to harmonise them with the international standard requirements.

The Republic of Moldova

- became party of major international conventions regulating the issues of protection of both collective and individual rights of national minority members,
- assumed a number of international obligations related to human rights monitoring, including those of national minorities. (The issues related to the preservation of national/ethnic identity, as well as to collective and individual rights of national minorities, should be tackled according to international standards, namely, through dialogue, common sense, compromises, tactfulness and friendliness.)
- achieved significant progress in the protection of ethnic minorities' rights.

To develop a state policy in the domain of interethnic relations and ensure the observance of implementation of the current legislation in the 90's, a number of state institutions have been established. The most important were: The Department of Interethnic Relations, the Parliamentary Commission for Human Rights and National Minorities, Presidential Commission on National Minorities' Issues, the Inter-Ethnic Studies Institute within the Academy of Sciences of the Republic of Moldova, a special Board for Minorities Education within the Ministry of Education. Each regional public administration institutions employed the specialists on interethnic problems. Unfortunately, starting with 2001, some of these structures have disappeared: the Parliamentary Commission is now focused on human rights issues only, the Presidential Commission on national minorities has been abolished, the Board on Education of

National Minorities has also stopped functioning, recently, the Institute for Interethnic Studies within the Academy of Sciences of the Republic of Moldova has been transformed into a Centre for Ethnology.

Although the legal basis related to the protection of national minorities is generally in line with the main European and international standards, there are still substantial delays and problems with its implementation – particularly, at local level – in such fields as education, support for cultural development of national minorities and political participation and representation in governmental bodies. It is obvious that the present socio-economic crisis affecting the country is one of the main factors that make these goals difficult to achieve. Nonetheless, the authorities have to show distinct political will and determination, to mobilise all available resources in order to ensure the implementation of the constitutional and legislative guarantees with regard to the protection of national and other kind of minorities.

Legislation on National Minorities and the mechanisms of implementation

By the adoption of the Independence Declaration of the Republic of Moldova on 27 August 1991, the state Parliament has solemnly proclaimed that “it guarantees the exercise of social, economic, cultural rights and of political freedoms of all citizens of the Republic of Moldova, including persons that form the national, ethnic, linguistic and religious groups, according to the Helsinki Final Act and to the later adopted documents, to the Paris Charter for a New Europe”. Restating the Republic of Moldova’s attention to the minorities’ problems, the Parliament has adopted on 26th of July 1992 a Declaration that proclaimed the necessity of meeting the international demands and standards for the protection of persons that “belong to ethnic, linguistic and religious minorities, their legitimate right to preserve and develop their own identity.”(O. M. of the Republic of Moldova, 1992, nr. 7, p. 21.)

In this context, the actions undertaken by the Republic of Moldova have been aimed at the designing of national legislation concerning observance and protection of the national minorities’ rights and at the acceleration of the integration processes. The parliament, presidency and the government of the Republic of Moldova have adopted many laws, decrees, resolutions which assured and fostered the rights of national minorities that live on the territory of the Republic of Moldova.

The fundamental law of the Republic of Moldova mentions the polyethnic status of the Republic of Moldova, and was adopted in order “to satisfy the interests of the citizens of other origin, with whom the Moldovans form the people of the Republic of Moldova”. The article 10 of the Constitution states that the state defines as a fundamental feature the unity of the people of the Republic of Moldova, with no discrimination based on their ethnicity, race or religion. The Republic of Moldova is a common and indivisible homeland for all its citizens. The fundamental law emphasises also that the state recognises and guarantees the right of all of its citizens to preserve, develop and express their ethnic, cultural, linguistic and religious identity.

One of the basic principles for settling the problems relating to the protection of human rights and liberties is the principle of equality, according to which all the citizens of the Republic of Moldova are equally treated by the law and the public authorities, regardless of their race, nationality, ethnic origin, language, religion, sex, political affiliation, wealth or social origin. Respecting and protection of the human right constitutes a basic obligation of the state (Art. 16 of the Constitution of the Republic of Moldova).

The Law on Non-Governmental Associations (Art. 1 (2)) gives a possibility to national minority members to establish their own ethnic and cultural organisations for more effective and efficient

presentation and promotion of their social, economic, linguistic, cultural and other needs and interests.

Through the Law on Citizenship, all former USSR citizens living permanently on the territory of the Republic of Moldova at the moment the Republic of Moldova proclaimed its state independence and sovereignty, were granted Moldova's citizenship regardless of their ethnic origin, language, religion and so on (this law was recognised by European experts as one of the most liberal in Europe). The Law on Identification Documents in the National System of Passports does not stipulate any regulations for identifying the ethnic origin of a person. The concept "nationality" refers directly to citizenship.

The Electoral Code provides for all citizens of the Republic of Moldova regardless of their nationality, language, race, religion etc. the right to participate in elections or to be elected to public authorities, thus confirming international standards according to which it is forbidden to restrict or deny the exercising of this right by national minorities.

On July 19, 2001 the Parliament of the Republic of Moldova adopted the organic Law on the Rights of Persons Belonging to National Minorities and Legal Status of Their Organisations." This law can be regarded a starting point for resolving a major part of problems related to national minorities. The given Law states and reiterates the major international principles and standards included in the Framework Convention on the Protection of National Minority and other international arrangements. The approval of this Law is an act of respect to the international standards according to which it is necessary that the national minority rights are to be regulated by the internal legislation.

In this law, the very notion of "national minority" is defined. Article 1 of the Law specifies that: "...persons belonging to national minorities shall include persons who reside on the territory of the Republic of Moldova, have Moldovan citizenship, possess ethnic, cultural and linguistic features that differ from the majority of the population (the Moldovans) and consider themselves to be of a different ethnic origin. Any person belonging to a national minority has the right to freely choose whether to be considered as such and this choice or the exercise of his/her rights related to such a choice shall not be to his/her disadvantage." According to the Law, the state ensures equality for national minority members before the law, the right for equal protection in the court (Art. 4), conditions for preservation, development and expression of ethnic, cultural, language and religious identity (Art. 5), the right for education in the native language at all levels of education (although according to the Article 6, the training in universities is to be done only in the state and Russian languages), the right to use the native language in the oral and written speech (Art. 7). Normative acts, official statements and other information of the national importance are published in the state and Russian languages (Art. 8), – the measure aimed at providing access to the above mentioned acts and normative documents to national minority members who usually know the Russian language (but, sometimes, neither the state nor their own language).

Besides, the state assumes an obligation not to change the ethnic and demographic composition of regions through any administrative and/or territorial reforms. In the communities having autonomous statuses, the names of settlements and streets are given in the state and other official languages (Art. 10) while in the territories where national minorities make a significant part of the population, the language of this minority may serve as means of communication with public authorities (Art.12 (3)).

National minorities have also the right for their own mass media (art. 13), the use of the national symbols for their private purposes (Art. 15), the use of the last, first and middle names in the

forms corresponding to their native linguistic norms and historical tradition (including the records in official civil registry documents) (Art. 16).

As to the national minority unions and associations, it should be mentioned that they have the same rights as those “enjoyed by ... non-governmental organisations” (Art. 19(1)). It is important to note that none of these organisations “can claim monopolistic presentation of interests of the respective national minority” (Art. 19(2) – the norm absent in the minority-related legislations of other countries participating in the project.

According to Article 22 of the same law, the Government, ministries and departments, as well as local authorities, are obliged to hold advice with national minority representatives when developing and implementing governmental policy in the sphere of culture and education for national minorities. National minorities must be proportionally represented in the executive and judicial authority structures, in armed forces, law enforcement bodies (Art. 24); however, no special provisions to ensure their presence in the Parliament and local governments are foreseen (in such cases, their representation is simply “based on the [general] legislation” (Art. 23)).

The Bureau for Interethnic Relations, existing in Moldova, is currently the state central body responsible for the promotion and implementation of the state policy in the language sphere and in the sphere of interethnic relations, also for the assurance of direct links between the state and national minorities with the purpose of providing the latter with different kind of support. Within its structure, the Bureau has a “steering committee for interethnic organisations as an advisory body” (Art. 15). Besides, a Nationalities’ Centre under the Department of Interethnic Relations has been created to assist functioning of ethnic and cultural associations.

At the same time, according to the given law, international arrangements have a priority over the national legal acts should their provisions differ from those in the national legislation regarding major human rights and freedoms.

On 24 October 2003 the Parliament of the Republic of Moldova adopted the Regulation ‘About the ratification of the national plan of activities in the area of human rights for 2004-2008’. Chapter 9 of this document, being developed and accomplished with the support of the UNDP in Moldova, stipulates actions for the insurance of the national minorities’ rights. The adoption of the National Plan followed the work of the group of independent experts who had prepared the Basic Report on the situation in the area of human rights in the RM. The chapter of the report on ‘The rights of the national minorities’, besides the review of the situation in this area, contains the recommendations, stipulating the needed organisational measures including financial support, legislative modifications, ratification of the international documents – in particular, the European Charter of the regional or minority languages. These recommendations are aimed at a wide audience consisting of the bodies of public administration, representatives of civil society, law enforcement agencies, and the mass media.⁸⁶

The right to use native language during criminal and civil proceedings is also ensured by the national legislation (Article 3(5) of the Law on the Reorganisation of the Court System), Decision of the Parliament of the Republic of Moldova on the Ratification of the European Convention on Legal Assistance in Criminal Proceedings (No 1332-XIII of 26.09.97) and others.

The Decision of the Parliament on the Concept of Education Development in the Republic of Moldova and Creation of the Steering Committee for Implementation of the Reform in the

⁸⁶ See the National plan of activities in the area of human rights for 2004-2008. – Chisinau, 2003. – 80 p.; Basic report about the situation in the area of human rights in the Republic of Moldova. – Chisinau, 2003. – 104 p.

Sphere of Education (No 337-XIII of 15.12.94) includes provisions requiring particular attention to the teaching of the native language at all levels of education.

The Law on Specific Legal Status for Gagauzia (Gagaus-Eri) of 1994 made it possible for Gagauzians to have their own autonomy and in case the Republic of Moldova changes its state and political status, it has the right not to join the newly formed structure. Through approval of this law, Moldova has harmonised the provision related to the assurance of the development and preservation of national minority identities with international standards, in the given case – through territorial and administrative principle. The international community appreciated as positive the creation of the Autonomous Territorial Unit of Gagauzia as an integral part of Moldova. Another example of “positive action” in the same context is the creation in 1999 of the Taraclia County with the prevailing Bulgarian population.

The Government has also approved a number of decisions on the measures to ensure further development of the Russian national culture in the Republic of Moldova (No 336 of 09.07.91), Jewish culture (No 682 of 09.12.91), Bulgarian culture (No 428 of 23.06.92), Ukrainian culture (No 219 of 25.04.91), Roma culture (No 51 of 08.10.93), as well as the decision on some measures aimed to support the Roma population in the Republic of Moldova (No 131 of 16.02.2001).

In conformity with the provisions of the Law on Culture, all Moldova’s citizens, regardless of their nationalities, are entitled to their cultural identity (Art. 11(1)) and to the protection of their cultural identity by the state (Art. 13).

In order to ensure national minorities’ access to the legislative information and governmental documents, in conformity with the Decision of the Parliament of the Republic of Moldova on the Assurance of Publication of the Official Newspaper (No 174-XIII of 06.07.94), the given newspaper is published in the state and Russian languages.

The Law on the Advertisement (Art. 8 (3)) ensures that all the advertisement producers have the right to disseminate advertisement in Moldovan mass media in the languages other than the state language.

By adopting the Decision on the Approval of the Manpower Policy in Public Structures (No 122-123 of 29.08.02), the Government approved an international standard stating that hiring and selection of specialists for public authorities and extension training for public officials should be provided without any discrimination on the racial or ethnic grounds.

At the same time, it is still necessary to do more for the improvement of national minority rights protection system.

The requirement of the obligatory knowledge of the state language by public officials and candidates for public offices is discriminatory in the present situation as long as the state has failed to provide necessary conditions for national minority members to study the state language. For this reason, the article restricts the right for participation in public activities (see the Framework Convention for the Protection of National Minorities, Article 15). Moreover, the current legislation does not regulate what is the necessary “level needed by public servants for holding official positions”.

According to the Decision No 28 of 30.05.2002, the Constitutional Court declared unconstitutional the expression “and in the Russian language” in Article 5(4) of the Law on Civil

Registry Acts, saying that the “records in the civil registry acts as well as modifications in them shall be made in the state and Russian languages”.

This decision results in a complicated situation. In Gagauzia, for example, there are three official languages: Moldovan, Gagauzian and Russian. After the adoption of the Constitutional Court’s decision, this article looks as follows: “records in the civil registry acts as well as modifications in them shall be made in the state language”. This means that the civil registry acts and modifications in them, should they be made in Russian or any other language in the county of Taraclia or in any other place in the Republic of Moldova, will contradict the given decision of the Constitutional Court. At the same time, the given decision itself contradicts the Law on the Functioning of Languages, the latter allowing that in the places of national minorities’ compact residence the state documents, including civil registry acts, shall be made in the state language and the language of the respective national minority or based on their decisions (Art. 10).

In order to avoid misunderstandings and accusations that the Russian language is given a privileged position as compared to other national minority languages, it would be desirable that the disputable provision (Art. 5(4)) of the Law on Civil Registry Acts) be paraphrased as follows: “records in the civil registry acts as well as modifications in them shall be made in the state language and other languages in conformity with the current legislation”. The way it sounds now contradicts not only the domestic legislative provisions but also international standards on the unrestricted use by national minorities of native languages in the public sphere.

The same decision of the Constitutional Court concerns also the expression “and the Russian language” in Article 10 of the Law on the Rights of Persons Belonging to National Minorities and the Legal Status of Their Organisations, stipulating that “the names of communities, streets and public offices should be indicated in the Moldovan and Russian languages...”. The same expression was found unconstitutional in item 11 of Article 11 (“information of the public nature directly related to the healthcare, rule of the law, security of citizens and visual information in the offices of the Ministry of Interior, Ministry of Justice, Prosecutor’ office, medical centres in municipalities and cities, transport, bus railway and riverside stations, shall be made in Moldovan and Russian languages).”

In this case, Article 11(2) of the Framework Convention on the Protection of National Minorities is violated in the part which states that “The parties assume an obligation to admit the right of any person belonging to a national minority to place advertisements, notices and other information of private nature in the national minority language.” At present, in Chisinau and on the whole territory of Moldova (including Transnistria), the names and the information indicated above are given in two languages or sometimes in the Russian language only. That is why it is unclear what mechanism for enforcing the implementation of the given decision of the Constitutional Court is to be used, who exactly is going to deal with the given problem, and what is the time limit within which this decision will be implemented. Moreover, basing on the given decision of the Constitutional Court, only the names and indications in the state language should remain, while those in other languages shall be deleted or destroyed. Should any steps on the liquidation of the names and indications in the Russian language be undertaken in compliance with the decision of the Constitutional Court (we are not speaking about autonomies in the given context), the right of the population speaking other languages for the access to public information will be violated; that would mean the violation of international standards (for example, the Framework Convention on the Protection of National Minorities, Article 11(2); UN Declaration on the Rights of Persons Belonging to National, Ethnic, Religious and Language Minorities, Article 2 (1).

On 19 December 2003 the Parliament adopted the Law of the Republic of Moldova No 546-XV 'About Ratification of Concept of the National Policy of the Republic of Moldova' (further the Concept of National Policy). This document contains a number of principles, priorities and tasks on the integration and consolidation of the indivisible multicultural and multilingual nation of Moldova by means of bringing national interests into accordance with the interests of all national and language groups. In accordance with the Constitution, the Moldovans as the titular nation, together with Ukrainians, Russians, Gagauzians, Jews, Bulgarians, Romanians, Belarussians, Roma, Poles and others form Moldova, and for all of them Moldova is a common home. Though it does not bring any improvements into the observance of minorities' rights, the Concept proclaims the state responsibility to take every possible measure necessary for the preservation, development and free expression of ethnic, cultural, religious and linguistic identity of all ethnic groups living in Moldova.

The Concept has, from the point of view of those who adopted it, a significant political importance, which on their opinion stipulates the rigor principles by which the public authorities should guide in all the domains of activities that regards the development of diversity and national identity. On the other hand, Moldovan intellectuals have criticized vehemently this document, considering it a generator of political instability. Actually, the Concept of National Policy hasn't deepened the legislation, nor it enlarged the application area of the existing laws.

Language Policy

It is well known that in multinational states the language acquires a decisive significance for national minorities. That is why the problem of regulation of languages use in multicultural societies is very important not only from the point of view of its legislative solution, but also from the point of view of practical application of the legal rules. Therefore, it is only natural that the linguistic and educational problems were crucial for solving a number of interethnic issues in the Republic of Moldova over the last fifteen years. As was already mentioned, Article 10 of the Constitution emphasises that citizens of different ethnic origin, together with the Moldovans, constitute the people of the Republic of Moldova. It also stipulates that "The state ... guarantees the rights of all its citizens to preserve, develop and express their ethnic, cultural, linguistic and religious identity" and provides the possibility to create administrative autonomies in the regions densely inhabited by minorities and in Transnistria (where 42% are the Moldovans, 28% – the Ukrainians, and 24% – the Russians).

The legislation of the Republic of Moldova fixes the status of the State language for only one language – Moldovan; however, the state recognises and protects the right for preservation, development and functioning of Russian and other languages, which are used on the territory of the country (Article 13 of the Constitution of the RM). The regulations on using the languages in Moldova are stipulated in more detail in the Law on the Functioning of Languages in the Territory of the Republic adopted in 1989. By that, realisation of "real National-Russian and Russian-National bilingualism" (Art. 3) has been prescribed. Taking into account the importance of keeping the stability in the linguistic policy, this law acquired a status of the (Chapter VII of the Constitution). By this law, publication of all normative acts, official communications and other informative materials of public interest is guaranteed in both Moldovan and Russian. The right to address public institutions, orally or in writing, in either the state language or in Russian is also ensured. In areas inhabited mainly by national minorities, the language used by the state administrative bodies in their secretarial work or in drafting documents can be the mother tongue of the respective population. In fact, Russian remains the primary language of administration, commerce and education in these regions of the country (Art. 6).

The Law on the Functioning of Languages gives the Russian language the status of the language for international communication at the same scope as provided for the state language, thus confirming international standards in this sphere regarding the free use of national minority languages both in the social and private sphere and in the places of ethnic minorities' compact residence. Russian language serves as a working language for public authorities at the same level as the state language. Moreover, in order to provide access for national minorities to public documents, public authorities' documents have to be translated into Russian and Gagauzian languages in the respectively populated areas (Articles 2, 3, 4, 6, 7, 8, 9, 10, 11, 15, 18, 24, 27, 29). According to the provisions of Article 18, Moldova ensures the right for primary school education, high school education, secondary technical school education, vocational training and university education in Moldovan and Russian languages ensuring, at the same time, necessary conditions for members of other nationalities to get education in their native language.

The most favourable conditions created in the Republic of Moldova for functioning of the Russian language by no means solve a major linguistic problem: whereas the overwhelming majority of population does speak Russian, most of the Russian speakers do not speak or even understand the Moldovan/Romanian language.

Apart from Russian, conditions are created for studying other languages; namely, Ukrainian, Gagauz, Bulgarian, Hebrew, Polish and German languages are studied as native languages. The system of schools and other educational institutions with Russian language of instruction is preserved and further developed. Teachers for national minorities' languages are being trained. In this context, it is worth mentioning that according to the 1989 census data, only 11.2% of ethnic Russians, 15,2% of Jews, 12,8% of Ukrainians, 6.9% of Bulgarians and as low as 4,4% of Gagauzians reported a fluent knowledge of Moldovan as a second language. (See Appendixes, Table 8).

The Ukrainian language is studied in 37 secondary educational institutions, the Gagauzian in 52, Bulgarian in 30, Jewish in 2, Polish in 1, German in 1. However, the teaching language in these institutions, at least for the moment, remains to be Russian. The Russian language is also obligatory for studying in secondary schools. There is a hope that these institutions will begin instruction of experts capable to teach the minority languages and some of the subjects in their particular minority language. Nowadays, the special instruction of these experts and teachers takes place at the educational institutions in Chisinau and in areas of the minorities' compact residence. Within the State Company "Teleradio-Moldova" two editorial offices specialise in ethnic languages programming. Local radio and television networks also broadcast in Russian, Ukrainian, Gagauzian and Bulgarian.

Moreover, there is an effective bilateral cooperation on this matter with Bulgaria, Poland, Russia, Turkey, Ukraine, etc. However, many of national minorities' representatives consider the existent possibilities insufficient and continue to approach the problems regarding the accessibility of handbooks, manuals, trainers and experts. In comparison to other minority languages, there is yet no possibility to study the Romany language in Moldovan schools within the framework of both common programmes and Sunday schools. The recently implemented measures for stimulating the development of research studies, as well as the instruction of the linguistic experts, makes the satisfaction of needs for this kind of education a realistic prospect.

At the practical level, it should be emphasized, once again, that in relation with the public authorities the Russian language is widely used, along with the state language, whereas the other minorities' languages are much less used. According to the information presented by some national minorities representatives, the authorities answers and administrative blanks are usually

concluded in the state, sometimes in Russian language, even though the laid down appeals or applications were written in other languages. In this context, it should be mentioned that the representatives of the Ukrainian minority have recently informed the Council of Europe (Consultative Committee of the Framework Convention) that many ethnic Ukrainians of Moldova would prefer using the Ukrainian language rather than Russian in their relations with the administrative authorities.

Wider application of minority languages is implied by Article 8 of the Law on Functioning of Languages stipulating that “at the state or public forums (conferences, meetings, assemblies, etc.) the choice of languages by the participants is not restricted.

The Law on Creeds ensures the right to use the native or traditional language of the creed during services and religious activities.

The Law on the Press includes the right to create a press agency by any person or legal entity provided that the citizenship condition is met. At present about 50% of all publications are in the languages of minorities.

The Law on Education and the Law on the Functioning of Spoken Languages stipulate one basic principle: “The state assures the right to choose a language of education and training at all levels and stages of the education process, with mono-linguism being the priority form of this process”. In line with these provisions, national minorities can have schools with teaching in their mother tongues.

In respect of the judicial system, the Constitution states that individuals who cannot understand and speak the official language have the right to read all the Acts and court documents, and to speak at the hearing, via an interpreter. According to the provisions of the legislation, the legal proceedings can be conducted in the language accepted by the majority of its participants. Public notaries can use both the official and the Russian language. The Law on Functioning of Languages regulates the system of making legal proceedings in notary offices, in registry offices and in local authorities. According to Article 17, the legal proceedings in the above mentioned organs are made in Moldovan or Russian languages. In local authorities all the documents are designed in the state language (but on the request of a citizen they are designed also in Russian), but in the notary offices and registry offices they are designed both in the state and Russian language. Currently, there are deviations from these provisions of the law: registry offices deliver documents (birth certificate, death certificate, certificate of marriage), designed only in the Moldovan language. The Law on the Functioning of Languages was also criticised by many local and foreign experts who believe that Article 7 contains some discrimination provisions as long as it indirectly implies the use of the state language in the private sphere, thus contradicting international standards.

In the local law “On the Functioning of the Languages on the Territory of Gagauzia”, adopted by the People’s Assembly of the Gagauz-Ery, it is stipulated that the legal procedure, the criminal, civil and administrative cases on the territory of Gagauzia are done in Moldovan, or Gagauzian, or Russian languages. In the draft Law on Special Legal Status of Transnistria it is stated that the official languages of Transnistria are Moldovan, Ukrainian and Russian languages, thus legalising the equal status and the functioning of these three languages in this particular region.

The interrelations between the citizen and the state in everyday life inevitably deal with the problem of language in denominations and information. In accordance with the Law on Functioning of Languages (Articles 28 and 29), signs with the denomination of the bodies of the

state power and administration, signs with denomination of squares, streets and localities are made in Moldovan and Russian languages.

The denomination of goods, marking, labels for goods, instructions to the goods produced in Moldova, as well as any other visual information, is designed in Moldovan and in Russian languages. In the areas where the majority of the population is of Ukrainian, Gagauzian or Bulgarian ethnic origin, the visual information may also be provided in the respective languages. The official forms, the texts of seals, stamps are made in the state and Russian languages (Art. 27 of the Law). The forms, used in the social sphere (institutions of communication services, savings banks, enterprises of services for population, etc.), are made in the state or Russian languages and are filled by citizens in either of them.

In Gagauzia, according to the above-mentioned local law, these problems are settled with the use of Moldovan, Gagauzian and Russian languages. Unfortunately, the requirements of the laws in this regard are often neglected, because only the state language is often being used.

Acquisition of linguistic standards of the Moldovan language by national minorities is a special problem in Moldova. Though the situation steadily changes, still a good number of representatives of national minorities do not know the official language due to historical circumstances. This creates a lot of difficulties, because according to the Law on Functioning of Languages on the Territory of the Republic of Moldova, the officials from the state administration, public organisations, health care, educational, cultural and social service institutions should, regardless of their national origin, know both the official and the Russian language. In the regions where the majority of the population is Gagauz, knowledge of the Gagauz language at the communication level is necessary for public officials to perform their professional obligations. At the request of the Council of Europe to guarantee a proper, objective time period for the study of the official language and to reduce the potential legal consequences of insufficient knowledge of it, the Parliament postponed the examination of public officials on their knowledge of the official language.

Education Policy and Minorities

It is obvious to everybody today, that education is an extremely important element for the preservation and further development of the identity of persons belonging to a national minority. It is of course also clear, that mother tongue education is of vital importance for such a minority.

The annual statistics on different educational institutions before 1989 shows the diversity of ethnicity of pupils and teachers, but only two languages of instruction. Thus, in 1989 59.4% of students were taught in Moldovan, 40.6% in Russian.

In regard to the question of the language of instruction after 1989, we can also mention only two languages – Moldovan and Russian, in which the teaching is presented at all levels, from pre-school to post-graduate education. Other languages, as well as foreign languages and those which are mother tongue for minority national groups in the Republic of Moldova, in some schools, are studied as separate school subjects, in several schools a number of subjects are taught in them, i.e. we can speak about schools with this or that set of studied languages.

If we consider the concept of a “school of national minority” to be a school where the language of the majority of the population is obligatory studied, but the subjects are taught in the mother tongue, then there are only several experimental schools (classes) with Ukrainian, Yiddish, Bulgarian languages of instruction, except Russian. Russian remains the language of instruction for national minorities.

For example, while the Gagauz movement for autonomy has resulted in an increased attention to the native language in schools and media, it had not yet resulted in a shift from Russian as the language of instruction. All of the 36 schools, 16 lyceums, the Pedagogical College and Comrat State University in Gagauzia use Russian as a language of instruction with the exception of a single school in Vulcanesti and a lyceum in Comrat which use Moldovan. Gagauz children, however, typically study their own language (for 3 hours per week) in primary classes and secondary school as a subject. Moldovan is a required school subject in all the classes, though finding qualified teachers who wish to live and work in Gagauzia is problematic for educators.

Of course, mother tongue education may be organized in different ways, depending on several factors: political will, economic situation, national minority's request, pedagogical conditions to satisfy the qualified teachers, accessible text-books etc.

Currently, there are 4 types of minority schools in the country, from the point of view of minority language position in them:

- Schools with Russian language of instruction, where representatives of different minorities traditionally study;
- Schools with Russian as a medium of instruction, where mother tongue (Ukrainian, Gagauz, Bulgarian) exists as a mandatory school subject, studied 3 hours per week in grades 1-9; and 2 hours per week in grades 10-11 of the general secondary school and grades 10-12 of the lyceum;
- Schools and classes with Russian language of instruction, where mother tongue is studied as a subject and in addition, 1-3 subjects are taught in it;
- Schools and classes with native language (Ukrainian, Bulgarian, Polish, German) as a medium of instruction.

In all those types of schools the Moldovan language is obligatory studied in all grades. Today, out of 634.691 pupils, 508.954(80.2%) are of Moldovan ethnic origin, 42.790 (6.74%) belong to the Ukrainian ethnic group, 34.762(5.47%) are Russians by origin, 31.416(4.95%) belong to the Gagauzian minority, 10.834(1.7%) – to the Bulgarian ethnic group, 1.055(0.16%) – to the Jewish minority, 1.755(0.28%) are representatives of Roma people, and 3.125(0.49%) belong to other minority groups.

The majority of children that belong to national minorities studies at the schools with the Russian language of instruction. Thus, beginning from 1989, the pre-university institutions: primary schools, gymnasiums, general secondary schools and lyceums – altogether 260 (17.4%) are using the Russian language of instruction, 114 (7.6%) have separate classes with the Russian language of instruction and classes with the Moldovan language of instruction. The total number of children instructed in Moldovan language constitutes 78.0%; 131574 (21.8%) – study in Russian language; 374 (0.06%) pupils are instructed in Ukrainian and 171 (0.02%) pupils – in Bulgarian language.

There are two schools where Jewish history and culture, and languages (Hebrew and Yiddish) are studied. Currently most Ukrainian, Gagauz, Bulgarian children study their mother tongue as a school subject:

- Ukrainian language is studied in 34 schools and 3 lyceums (5984 pupils) (Transnistrian area is not included);
- Gagauz language is studied in 36 schools and 16 lyceums (29483 pupils);

- Bulgarian language is studied in 27 schools and 3 lyceums (7925 pupils);⁸⁷

According to the Article 6 of the Law of the Republic of Moldova № 382-XV from July 2001 regarding the national minorities' rights and the juridical status of their organisations, the local public administration pays a great attention to the creation of educational and instruction conditions for the children in their mother language or on demand.

Nowadays in the municipalities operate:

- 91 schools with state language teaching (60504 students);
- 42 schools with the Russian language of instruction (22415 students);
- 19 joint schools (8485 students);
- 84 kindergartens with the state language of teaching (21737 children);
- 18 kindergartens with the Russian language of teaching (5780);
- 44 joint kindergartens.

The authorities have the duty to make essential efforts for the gradual extension of the minority languages instruction, in conformity with the existing demand, and the allocation of the necessary resources for the guarantee of the adequate instruction quality. A major attention must be paid to the development of the multilingual instruction methodologies, to allow students and professors to face the specific situation of Moldova.

One of the realities of a minority's school is the need to learn as many as four languages: mother tongue, the state language, Russian language and one foreign language. This necessity is often doubted and causes heated debates. Profound analysis of this problem, study of the experience of other countries, evaluation of personal experimental results brings to the conclusion that:

- Each of the languages studied has its own special function; expulsion of either of them from the curriculum will have negative consequences;
- Basic conditions determining the success are: the stages of introduction of each language, number of hours per week necessary for their study, application of modern technologies of language studies.

Priorities are defined by the functions of each language studied. Mother tongue has an advantage in this hierarchy. This is not a mere declaration; the results of several disciplines justify this claim:

- The development of the personality starts within the family, and it continues in nursery school and subsequent schooling. The medium of personalisation is the mother tongue;
- Primary socialisation within successive circles of the family, nursery school, elementary school (and peer groups) requires facility in the mother tongue; furthermore, the acquisition of the standardised variety of mother tongue is required;
- The acquisition of cultural techniques (first of all literacy) is facilitated by the mother tongue;
 - The acquisition of the state language and other languages is better achieved if the starting point is the mother tongue.

Thus, the mother tongue education for ethnic minorities is a basis for the development of personality, preservation of national identity, preservation and development of national minorities' culture and national minorities' social integration. Therefore, respect for the principle of mother tongue education is an absolute; this is the basis of non-discrimination of minority children. State language must be the second one for study because it is one of the main conditions of integrating a person into socio-political, economic and cultural life of the Republic.

⁸⁷ *Discrepancies in the statistical data presented by the Moldovan team might be rooted in using sources dated by different years. Eds.*

Taking into account the long-lasting cultural tradition, geo-political and economic situation of the country, as well as the parents' requests, Russian language has to be preserved as well. Alteration of political chart of the world and democratisation of Moldovan society is favouring conscious study of foreign languages as a way of expansion of personal possibilities and a tool of European integration.

Of course, the training of minority teachers is another very important issue in the field. In the Republic of Moldova conditions are created for training of teaching personnel for the pre-school establishments and primary schools with Russian, Ukrainian, Gagauz and Bulgarian languages of instruction. Specialists in Russian, Ukrainian, Gagauz, and Bulgarian philology are trained at five state universities: Moldovan State University, Pedagogical State University "Ion Creanga" (Chisinau), Pedagogical State University "Aleco Ruso" (Balti), Comrat State University (Comrat, Gagauzia) and Taraclia State University.

Besides that, according to the bilateral agreements between the Ministry of Education of Moldova and Ministries of the respective countries, graduates from minority schools of Moldova study at higher educational institutions of Russia, Ukraine, Bulgaria, Turkey and Romania.

As a whole, the legislative and normative basis developed in the Republic of Moldova is quite a democratic one and does not contradict the European standards – this fact is generally recognised. At the same time, the real situation evidences the fact that the legislative provisions are not reflected in the normative acts issued on their basis, in the instructional acts, in the governmental programmes, and consequently are implemented marginally and fragmentarily, failing to provide cohesiveness and integrity of the educational process. The negative consequence is a poor quality of education that can entail the discrediting of the idea of native language study and of the competitiveness of the education in the native language. Therefore, we consider that additional concrete measures on the consolidation of the education of national minorities in the field of native languages, history, and culture study, on the creation of conditions for the education in the native language, on the securing of the continuity in education, on the application of a scientifically grounded approach to the study of languages in schools for national minorities are absolutely essential.

Another important point from the educational perspective is the contents of history handbooks. The changes in studying history at the end of 2001, announced by the government, constituted the source of significant tensions in January of 2002 in the Moldovan society. With a view to clarifying the dispute, in the spring of that year a moratorium was announced for that matter. In its first opinion on Moldova, the Consultative Committee for the Framework Convention of the CoE has proposed a balanced approach towards these sensible issues and considered as essential the consultation with all the involved parties.

The appearance of the history handbooks in 2006 has made the problems of intercultural dimension practically vanishing. At the same time, it seems that the introduction of the new handbooks continues to be a potential conflicting issue in Moldova. In particular, because they contain the principle of class (divisions), they are ideological, with examples of soviet (sovietised) history.

Taking into consideration the experience of the Council of Europe in this domain, the authorities should assure that *the new handbooks reflect a well-balanced presence of the state history and contribute to the tolerance, consolidation and mutual understanding within the society*. When the new history teaching system will be implemented, the authorities must take into consideration all the sensible aspects with a view to the maintenance and consolidation of the

social cohesion and interethnic dialogue. Unfortunately, the ample analysis of the handbooks shows that a lot of deficiencies have been found which make their use questionable.

Language and Education Policy in the Transnistrian Region of Moldova

In 1992 Moldova experienced a brief but bloody conflict over the territory lying east of the Dniester River, the region known as Transnistria.

As a result of the armed conflict, the central power in Chisinau lost administrative control over Transnistria. The separatists' leaders consolidated the "pseudo-state" structures in the controlled zone. Over the ten years the region created many of such structures, starting with its own financial system and ending with the ministry of "state security". On December 25, 1995 the Constitution of Transnistria was adopted.

For the government in Chisinau, it remained the state's foremost security problem, since the area along the Dniester functioned as a de facto separate state, the Transnistrian Moldovan Republic.

The origins of the Transnistrian problem are multifaceted including the political and economic interests spawned by the war itself.

While ethnic Moldovans make up approximately 76% of the inhabitants of the right bank region of the Dniester River, there is no ethnic majority on the left bank: 42% of the population are Moldovans, 25% Ukrainian, 23% Russian. Three languages are proclaimed as the official "state" languages: Moldovan (based, however, on the Cyrillic alphabet instead of the Latin one), Ukrainian and Russian; the official documents are to be translated into each language. The language of almost all administrative work is, however, Russian, the language that the politically active elite is most comfortable with, be they Russians, Moldovans or Ukrainians.

Only rarely is another language spoken from the rostrum of the Transnistrian Supreme Soviet. In the districts, however, Moldovan and Ukrainian are regularly used in official business, Ukrainian in Rybnita and Kamenka in the north, and Moldovan in Dubossary and Grigoriopol.

Residents have the right to address official institutions in any of the three official languages, and replies are to be written in the same language. Taking into account the low level of proficiency in Moldovan and Ukrainian among PMR officials, it is unclear to what extent this clause is actually enforced.

The PMR language law stipulates that "an official who refuses to accept an inquiry, application, or compliant on the grounds that he does not know the language in which it is written, shall be held legally responsible." The effectiveness of this provision should not be exaggerated. No extensive state programme for the promotion or teaching of the official languages has ever been implemented.

The return of the Moldovan language to Latin characters that took place on the right bank of Moldova in 1989 is regarded on the left bank as a "romanisation" of the Moldovan language. The PMR Law on Languages, as well as a special Supreme Soviet decision, forbids the use of Latin characters in the teaching of Moldovan and in official correspondence. This ban, however, has not been strictly enforced. In some places the alphabet choice has been left to the parents, and in a number of schools in Tiraspol, Bender, and Rybnita, education in Moldovan is sometimes conducted on the basis of the Latin alphabet.

In late 1993 the United Council of Work Collectives (OSTK) started a campaign against this "romanisation" which in the mass media was dubbed "the school war". Parents who objected to the stricter enforcement of the alphabet ban and stood against the dismissal of a number of local school officials, organised pickets outside some schools in Bender and Tiraspol. In 1995 the PMR government decided to stop funding schools that use the Latin characters.

In Transnistrian region today there are no specialised education establishments or universities teaching in the Moldovan language based on the Latin alphabet. There are a small number of schools where the inhabitants managed to oppose the pressure and established the Moldovan language based on the Latin alphabet as the language of study. The majority of pupils in the Moldovan language schools in this region, however, can not exercise this right.

Currently, there are only seven schools (about 5,378 pupils) that are funded by the Government of Moldova and follow the curriculum of the Moldovan Ministry of Education, while other 77 schools in the area, controlled by the separatist regime, do not teach in the mother tongue. The prohibition of the Latin script in the PMR region results in the constraints on the education of Moldovans and disrespect for human rights. Taking into account these facts, the Ministry of Education of the RM considers it a priority to assist in the rehabilitation of schools in Dubasari (650 pupils), Bender (2,014 pupils) and Ribnitsa (760 pupils).

Participation in Decision Making Process / Institutions

Persons belonging to national minorities continue to be present in Moldovan public life. There are certain legal mechanisms securing their involvement in decision making process. The situation seems to be generally satisfactory at a local level with respect to participation in elected bodies, especially in areas inhabited by substantial numbers of persons belonging to national minorities and particularly in Gagauzia by virtue of the special autonomous status of this territorial entity.

At national level, there is a significant number of members of Parliament belonging to national minorities, due to the fact that the Electoral Code provides for all citizens of the Republic of Moldova regardless of their nationality, language, race, religion and so on the right to participate in elections or to be elected to public authorities in compliance with international standards, according to which it is prohibited to restrict or deny the exercising of this right by national minorities.

Further measures are nonetheless needed to foster a more significant presence of national minorities' representatives, including those belonging to numerically smaller minorities, in state administrative structures. At present, the national minorities consider themselves underrepresented in key structures such as the Ministries, other national state agencies.

Roma participation in public affairs remains very limited. At local level, they are only rarely consulted about affairs concerning them. Their needs are insufficiently taken into account in decision-making. They are absent in the elected bodies, including where they account for a significant proportion of the local population, and their participation in state administration structures is limited as well.

Access to Media in Minorities' Languages

The rapid development of private electronic media in Moldova has opened up new opportunities for the access of national minorities to the media and the use of their languages in this context. Out of 150 private radio stations and television channels, about fifteen broadcast their

programmes, or at least some of them, in minority languages in areas where significant numbers of persons belonging to national minorities live: in Russian, Gagauzian (several private radio and television channels broadcast in Gagauzia, as well as the public company Teleradio-Gagauzia), Bulgarian (in Taraclia and Gagauzia), Ukrainian (in Chisinau, Balti and the Edinet region), Polish (in Balti), Romani (in Soroca). Those interested are also able to follow programmes from foreign radio and television channels (in particular, Russian and Ukrainian) retransmitted in Moldova.

Public television and radio continue to transmit programmes on different topics for national minorities nationwide. These are broadcasts in minority languages at the rate of 30 minutes per week in Ukrainian, Gagauzian and Bulgarian respectively, and 30 minutes once a month in Roma language and Hebrew respectively. Public channels also broadcast a 30-minute programme in Russian twice a month and a monthly bilingual (Moldovan/Russian) programme that brings together representatives of the various national minorities. These programmes are produced by the teams that include persons belonging to the national minorities; those television programmes are subtitled in the state language. Minorities are also represented on the Supervisors' Board of the Public Radio and Television Company and the Broadcasting Council.

There has certainly been an improvement in access to and presence in the national media of Ukrainians and the Ukrainian language. Nevertheless, their representatives consider this situation unsatisfactory and would like to have more news programmes in Ukrainian, even if they would be short (five to seven minutes). At the same time, further measures are still needed at local level. According to the relevant authorities, the present situation is not the result of a lack of political will, but rather roots in the under-use of the existing opportunities by those interested, among other reasons because of the continuing problems with regard to the training of journalists and problems connected with the lack of resources.

Generally speaking, minority representatives believe that the volume and quality of the programmes mentioned above, as well as the broadcasting times allocated to them, do not respond sufficiently to their needs. Moreover, the coverage of issues of interest to the numerically smaller minorities (the Armenians, Belarusians, Azeri, Tatars, Poles, Lithuanians etc) remains limited. As for the printed media, their number and quality are also considered inadequate. Most of these publications are issued only irregularly due to the fact that private funding, on which they rely, is not permanently available.

The use of minority languages in the media still seems largely dependent on financial resources, political interests and existing levels of professionalism. The state language and Russian are therefore still those most widely used in the media. Moldova should continue to make efforts, within the scope of its economic possibilities, to stimulate the preservation and development of the media in various national minority languages at both central and local levels. Special attention should be paid, including with respect to the training of journalists and the airtime, to the requests of the Ukrainians and persons belonging to numerically smaller minorities who still consider themselves disadvantaged in this field.

II.1.3 Romania

Although Romania, as well as other countries of Central/Eastern Europe, did develop national legislation addressing human and minority rights after the end of the Cold War, a major problem of the minority-related national legislation is the absence of a special law regulating the rights and obligations of the members of minority communities. Meanwhile, according to Article 73, paragraph 3(r) of the Constitution of 2003, there is a requirement that the statute of national minorities be regulated by an organic law, which parliament has to adopt by an absolute majority of the members of both the Senate and the Chamber of Deputies. The draft law at issue named

“*Law on the Statute of National Minorities Living in Romania*,” comprising 78 articles, and containing a set of novelties, the most important of which envisages the establishment of National Councils of Cultural Autonomy has been prepared indeed. In June 2005, the Romanian authorities requested the Venice Commission to provide its expertise on it; in its relevant Opinion, the Venice Commission assessed the draft law as containing provisions which, in principle, constitute a satisfactory framework for the protection of minority rights in Romania, and concluded that it, therefore, merits an overall positive appreciation.⁸⁸ However, a number of shortcomings have been identified, and the amendments to improve its quality were proposed, including, inter alia, those concerning the conditions for the registration of the organizations of citizens belonging to national minorities, the ‘exhaustive character of the list of minorities accompanying the definition’ of minorities, and not fully clarified points about the establishment and functioning of the National Councils of Cultural Autonomy.⁸⁹

Another issue at stake is the lack of a proper definition of national or ethnic minorities (and Venice Commission criticisms of the definition proposed by the Draft Law mentioned above). This complicates the application of the several existing normative acts concerning these issues. For example, in the bill regarding the election of the authorities of local public administrations,⁹⁰ there is a following definition (Art. 7(1)): “*a national minority is such ethnic group that is represented in the Council of National Minorities*”. Minorities have also been defined in a similar way in the law regarding the election to the House of Representatives and the Senate.⁹¹ According to the electoral legislation, those minorities able to establish their own organisations were eligible for running the elections in 2000, and winning one seat in the House of Representatives in the name of the respective minority. However, some minority communities although actually existing but not founding a minority organization, or those that not attained a sufficient number of votes, could not participate in election process and/or be represented in the elective bodies. This situation might imply certain inequality amongst different minorities. Moreover, connecting the recognition of a minority to its capacity to have one representative elected into the national legislature leaves other communities not only unrepresented but also unrecognised. Among such communities are the Csangos and the Hutzuls (the latter are considered to be Ukrainians/ Ruthenians with a specific dialect), which – due to their small numbers – have no chance of electing their own respective representative.

Constitutionally defined principles of Romanian legislation

The most important provisions regarding those rights specifically guaranteed to members of minority communities and ethno-culturally delimited groups, differing from the majority population, are enshrined in the revised **Constitution of Romania** of 2003.⁹²

According to its Article 4:

- (1) *The State foundation is laid on the unity of the Romanian people.*
- (2) *Romania is the common and indivisible homeland of all its citizens, without any*

⁸⁸ Opinion no. 345 / 2005, Strasbourg, 25 October 2005, available at [http://www.venice.coe.int/docs/2005/CDL-AD\(2005\)026-e.pdf](http://www.venice.coe.int/docs/2005/CDL-AD(2005)026-e.pdf)

⁸⁹ Ibid.

⁹⁰ Law No 67/2004.

⁹¹ Law No 373/2004.

⁹² The 1991 Constitution was revised by Law No 375/2003 and approved by referendum which took place on October 18-19, 2003. By the Decision No. 3 from October 22 2003, the Constitutional Court confirmed the result of this referendum. The decision was published in the Official Gazette of Romania, Part I, on 29 October 2003, therefore, this day is considered to be the date when the Constitutional Law No. 429/2003 of revising the Constitution came into force. So it is the date when the new constitutional regulations started applying. For more information, see “The evolution of election regulations in Romania”, 2nd Vienna Election Seminar, 6 – 7 December 2004

discrimination on account of race, nationality, ethnic origin, language, religion, sex, opinion, political adherence, property or social origin.

Article 6 defines the right to identity:

(1) The State recognizes and guarantees the right of persons belonging to national minorities to the preservation, development and expression of their ethnic, cultural, linguistic and religious identity.

(2) The protecting measures taken by the Romanian State for the preservation, development and expression of identity of the persons belonging to national minorities shall conform to the principles of equality and non-discrimination in relation to the other Romanian citizens.

Article 16 guarantees the equality of citizens:

(1) Citizens are equal before the law and public authorities, without any privilege or discrimination.

(2) No one is above the law.

(3) Access to a public office or authority, civil or military, is granted to persons whose citizenship is only and exclusively Romanian, and whose domicile is in Romania.

In addition, the **Romanian constitution** establishes:

- the right to education of minorities (Art. 32(3)): *The right of persons belonging to national minorities to learn their mother tongue, and their right to be educated in this language are guaranteed; the ways to exercise these rights shall be regulated by law.*

- Parliamentary representation of minorities (Art. 62 (2)): *Organizations of citizens belonging to national minorities, which fail to obtain the number of votes for representation in Parliament, have the right to one Deputy seat each under the terms of the electoral law. Citizens of a national minority are entitled to be represented by one organization only.*

- the right to an interpreter during juridical procedure (Art. 127 (2)): *Citizens belonging to national minorities, as well as persons who cannot understand or speak Romanian, have the right to take cognisance of all acts and files of the case, to speak before the Court and formulate conclusions, through an interpreter; in criminal trials, this right shall be ensured free of charge.*

Citizenship and recognition: Who Is Romanian

Shortly after the fall of the communist regime, Romania tried to offer a solution to the citizens in the territories that belonged to Romania in the inter-war period. In March 1991 the law of citizenship⁹³ was adopted, which in Article 4 stipulated the manner in which one could become a citizen of Romania, i.e. by birth, by having a Romanian parent, by adoption by a Romanian citizen, by repatriation or by naturalisation.

Concerning repatriation, Articles 8 and 37 stipulated that ‘people who lost their citizenship’ or had their Romanian citizenship revoked for reasons beyond them, as well as their descendants, could regain Romanian citizenship upon request, even if they currently held another citizenship and did not reside in Romania. It is the situation relevant for a number of citizens of the Republic of Moldova, Ukraine, Serbia, Bulgaria etc.

According to the law on citizenship, naturalisation can be achieved after a process that includes the following conditions:

a) s/he was born and has his/her domicile, at the time the application is filed, on the territory of Romania or, though not born on this territory, has lived legally on the territory of the Romanian state for at least 8 years, or if s/he is married and lives with a Romanian citizen for at least 5 years;

⁹³ Law No 21/1991.

- b) s/he proves, by conduct, actions and attitude, to be loyal to the Romanian state and states that s/he will not do or support and has never done or supported any actions against the rule of law or against national security;
- c) s/he is at least 18 years old;
- d) s/he has the legal means in Romania to provide for a decent life, under the conditions established by the laws regulating the status of foreigners;
- e) s/he is known to behave well and has not been convicted in the country or abroad for a felony that makes him/her unworthy of being a Romanian citizen;
- f) s/he knows the Romanian language and is acquainted with basic elements of Romanian culture and civilisation, enough to integrate in society;
- g) s/he knows provisions of the Constitution of Romania and the national anthem.

The law and its articles stipulating repatriation targeted all those people who live(d) in territories that belonged to Romania between the two world wars and their descendants. Thus a large number of citizens of the Republic of Moldova as the biggest territory lost by Romania in 1940, and to a lesser degree Ukrainians, Bulgarians and Serbs from the neighbouring countries find themselves subject to this law. In order for this repatriation principle to be feasible, the citizenship law introduced additional (helping) criteria in order to enhance the number of those who could apply for their lost Romanian citizenship: (1) the repatriated did (does) not reside in Romania and (2) the repatriated can hold on to his/her current citizenship in addition to the Romanian one. The citizenship law prior to 1991 did not allow this possibility.

The accession to the European Union has put under question the implementation of the repatriation principle in the citizenship law and to a certain degree the situation of the Romanians in the neighbouring countries that have not opened negotiations with the EU. As a consequence of the accession, the number of naturalisations has decreased and the process has slowed down.

Still, the preoccupation for the Romanians abroad, mostly the ones in the neighbouring countries, and the attention encompassed by the legislation and the governmental departments created with this purpose exist. In addition to the Department for the Romanians Aboard – addressing mainly issues of the Diaspora, there is a special Department for the Relations with the Republic of Moldova. Also, just like Hungary, Romania has a law for the Romanians from neighbouring countries that entitle ethnic Romanians from the region to mainly cultural benefits.

Minorities in decision-making

As shown above, the Romanian Constitution guarantees the access of minority representatives to the Romanian Parliament; these provisions were further elaborated by the electoral laws. With the exception of the Hungarian minority, numerous and politically organised enough to elect its political party into Parliament, all other minorities that have established minority organizations enjoy representation through one deputy seat in the Lower House of the Parliament.

As was already said, political representation of minorities is ensured by *law No. 67/2004 regarding the election of the authorities of local public administrations* (local level) and *law No. 373/2004 regarding the election of the Chamber of Deputies and the Senate*.

According to provisions of Article 7 of the former,

Candidates can be put forward by those organizations of national minorities that are represented in Parliament (para 2), although paragraph 3 of the same article adds that "*candidatures may also be put forward by other lawfully established organisations of the citizens belonging to national minorities, that shall submit a members' list to the Central Election Bureau. The number of*

members may not be less than 15% of the total number of citizens who, at the latest census, have declared they belonged to that minority.”

Article 7(4) reads that *“if the number of members needed for meeting the requirements of paragraph (3) exceeds 25000 persons, the members’ list shall include at least 25000 persons residing in at least 15 counties of the country and in the Bucharest municipality, but no less than 300 persons for each of those counties and for the Bucharest municipality”*. (This particular paragraph applies to the Hungarian national minority).

Concerning elections to the Chamber of Deputies and the Senate, Article 4 of the law No. 373/2004 (dealing with national minorities) contains 12 paragraphs. While some of them repeat the provisions of the law on local elections, its paragraph 2 stipulates that: *“The organizations of citizens belonging to national minorities defined according to paragraph 1, legally established, that have not obtained a mandate of Deputy or Senator seat have the right, according to Article 62(2) of the Constitution, to hold a single mandate together if they have obtained a number of votes equal to at least 10% of the average number of votes necessary at national level for the election of a Deputy.”*

Paragraph 7 clarifies the standing of these organizations in comparison to political parties in the parliament: *“According to this law, the same juridical regime as the one for the political parties applies to the organizations of citizens belonging to national minorities, mentioned at paragraphs 3 and 4”* (i.e., organizations represented in the Parliament or other legally established organizations of national minorities).

According to paragraph 8, *“The organizations of citizens belonging to the national minorities that took part at the elections on a common list of two or three organizations also benefit from the provisions of paragraph 2; in this case, if no candidate from the common list was elected, one mandate is given to all the organizations which proposed a mandate of deputy, according to the provisions of paragraph 2.”*

The implications of this legislation are twofold:

- organizations of citizens belonging to national minorities that are currently represented in the Parliament can propose their candidate without any restriction;
- other legally established organizations of citizens belonging to national minorities, although they can also propose their candidate(s), are obviously in a more complicated situation because they have to submit a list of members to the Central Electoral Bureau that contains no less than 15% of the total number of the citizens who, during the last census, have declared to belong to the respective minority. Moreover, if the number of members is higher than 25,000, the list of members must contain at least 25,000 persons living in at least 15 of the country’s counties and in Bucharest, with no less than 300 persons from each county and from the municipality of Bucharest. To meet this requirement means overcoming substantial technical (procedural) difficulties, not faced by the minorities already represented in the parliament.

These limitations resulted in the exclusion from the electoral process [throughout the country](#) of some organizations that aimed to represent the interests of ethnic communities at local level. At the same time, the competition has also disappeared and a mono-party (mono-institution) system was imposed for minorities. As a result, while in the 2000 local elections representatives of four organizations of the Hungarian community, four organizations of the Roma community, three organizations of the Bulgarian community, and two organizations of the Croat community were

elected, in the 2004 local elections only one organization was allowed to participate from every community. General results of 2004 local elections are presented in the Table 1.⁹⁴

Table 1

The results obtained by the minorities at the 2004 local elections:
(the source: official data communicated by the Central Electoral Bureau)

After the local elections from the 6th of June 2004, the results were as follows:

A. County counsellors

Name of the organization belonging to national minorities	Number of mandates	%	Number of votes	%
The Democratic Magyar Union from Romania	112	7,80	513.165	5,67
The Democratic Forum of Germans from Romania	11	0,77	76.843	0,85

B. Local counsellors

Name of the organization belonging to national minorities	Number of mandates	%	Number of votes	%
The Democratic Magyar Union from Romania	2.481	6,20	455.625	4,92
The Roma Social Party from Romania	189	0,47	69.293	0,75
The Democratic Forum of Germans from Romania	96	0,24	77.573	0,84
The Union of Ukrainians from Romania	29	0,07	5.448	0,06
The Community of Lippovan Russians from Romania	21	0,05	4.309	0,05
The Democratic Union of Slovaks and Czechs from Romania	20	0,05	3.048	0,03
The Union of Serbs from Romania	11	0,03	2.12	0,02
The Union of Croats from Romania	6	0,01	760	0,01

⁹⁴ Concerning the data on Roma's representation provided by this table, they should be supplemented by the information that in October 2006, the first Roma was elected Mayor of a small town Barbulesti near Bucharest. For details, see: *The First Romani Mayor* by Daniel Ganga and Petru Zoltan, Transitions Online, 4 July 2007, at: <http://www.tol.cz/look/TOL/article.tpl?IdLanguage=1&IdPublication=4&NrIssue=225&NrSection=3&NrArticle=18818>.

The Bulgarian Union from Banat-Romania	5	0,01	1.645	0,02
The Democratic Union of Turkish-Muslim Tartars from Romania	3	0,01	5.589	0.06
The Union of Polish from Romania DOM POLSKI	2	0,00	533	0,01

C. Mayors

Name of the organization belonging to national minorities	Number of mandates	%
The Democratic Magyar Union from Romania	186	5,96%
The Democratic Forum of Germans from Romania	9	0,29%
The Union of Ukrainians from Romania	2	0.06%
The Community of Lippovan Russians from Romania	1	0,03%
The Union of Croats from Romania	1	0,03%
The Bulgarian Union from Banat - Romania	1	0,03%

The monopolisation of the right to represent a whole community can lead to a division amongst minority organisations and the members of the respective community.

Concerning the parliamentary elections, after those that took place in November 2004, 18 seats in the Chamber of Deputies were provided, in compliance with the constitutional provisions and law 373/29004, to the national minorities' organizations which have not managed to enter Parliament directly. The 18 seats granted to national minorities account for 5.4% of all Chamber of Deputies seats. The Democratic Union of the Hungarians living in Romania (UDMR) gained 22 seats (6.7%). In the Senate, out of the 137 seats, UDMR won 10 seats (7.2%).⁹⁵

Despite the fact that in general, electoral legislation with regard to minorities is permissive and can be considered as using a "positive action" approach, the legal practice shows that minority participation is not specially effective, because the legislative initiatives of national minorities (others than the Hungarian one, whose parliamentary representation is not a result of this special measure) are mostly not taken into consideration.

The activities (and consequently, the efficiency) of the members of political parties versus minorities faction in the House of Representatives of the Parliament is illustrated by the Table 2 below.

⁹⁵ Information provided by the COMMITTEE OF EXPERTS ON ISSUES RELATING TO THE PROTECTION OF NATIONAL MINORITIES (DH-MIN) Members on the regulations contained in electoral laws and the laws on political parties that are of relevance to national minorities. Strasbourg, 16 February 2006, DH-MIN(2006)002, available at: [http://www.coe.int/t/e/human_rights/minorities/4_intergovernmental_cooperation_\(dh-min\)/2_documents/PDF_DH-MIN\(2006\)002%20Member_States_Contributions_Electoral_Law_EF.pdf](http://www.coe.int/t/e/human_rights/minorities/4_intergovernmental_cooperation_(dh-min)/2_documents/PDF_DH-MIN(2006)002%20Member_States_Contributions_Electoral_Law_EF.pdf)

The activity of some parliamentary groups in the House of the Representatives in the 2000-2004 legislature (until July 2004)

	Legislative proposals/initiatives			Speeches	Interpellations	Motions
	Adopted	Rejected	The proportion of adopted/rejected proposals			
PSD	3,4	2,5	1,35	27,6	5,4	0,4
PNL	3,0	6,3	0,48	42,0	23,0	10,8
RMDSZ	3,3	4,8	0,69	28,0	8,0	0,0
Minorities	0,7	4,4	0,16	11,7	8,1	0,0

It can be seen that the ratio of adopted and rejected proposals is much lower in the case of the parliamentary group of minorities than, for example, in the case of the National Liberal Party in opposition, which is indicative of the fact that the capacity of persons representing minorities in parliament to influence the legislative process is insignificant. Moreover, among the legislative proposals of minorities' representatives (others than those of the Hungarian minority) rejected by the Parliament were proposals regarding local elections (that would have guaranteed the representation of minority communities in local decision-making bodies), education for minorities, the improvement of social conditions (submitted by the Roma Party). There are decisions at local level with a promising potential, but the organizations of national minorities do not fully benefit from a special treatment that would guarantee their effective participation in the decision making processes that concern them specifically. As a result of the restrictive legislative provisions, the number of minority representatives among decision-makers has decreased.

These provisions of the electoral legislation have also been criticised by the Venice Commission; it was said, in particular, that they “disproportionably favour groups which are represented in Parliament to the disadvantage of (new) groups which wish to participate in public life. In the opinion of the Venice Commission, the requirement of proportionality has not been met in this case. The conditions for national minorities, or separate organisations within a national minority, not represented in Parliament to present candidates are so severe, that they may appear to be almost prohibitive.”⁹⁶

The use of mother tongues

The use of the mother tongue in relations with public authorities is established by the *Law regarding local public administration (Law No 215/2001)*, which in Article 90 stipulates that:

- (1) *In the relations between citizens and the authorities of local public administration the Romanian language is to be used.*
- (2) *In the territorial administrative units, in which citizens belonging to a national minority represent more than 20% of the number of inhabitants, in their relations with the authorities of local public administration and their specialized bodies, citizens can address the former orally or in writing in their mother tongue, and they are to receive answers both in Romanian and in their mother tongue.*

⁹⁶ Opinion No 300/2004, European Commission for Democracy through Law (VENICE COMMISSION). Opinion on the Law for the Election of Local Public Administration Authorities in Romania, Strasbourg, 4 January 2005, available at [http://www.venice.coe.int/docs/2004/CDL-AD\(2004\)040-e.asp](http://www.venice.coe.int/docs/2004/CDL-AD(2004)040-e.asp). (Quotation from paragraph 45).

(3) *In the conditions stipulated in paragraph (2), on positions of public relations there will also be employed persons that know the mother tongue of the citizens belonging to the respective minority.*

(4) *The authorities of the local public administrations will assure the inscriptioning in the mother tongue of the citizens belonging to the respective minority the names of localities and those public institutions under their authority, as well as the inscriptioning of announcements of public interest, in conditions stipulated in paragraph (2).*

(5) *The official documents are obligatorily made up in Romanian.*

However, there are still many discrepancies between the law and practice, with the exception of the areas in which these minorities represent the majority of the local population.

Education

Law No 84/1995 on education, with several modifications, establishes the framework of minority education⁹⁷.

Article 118 reiterates the right of members of national minorities to study in their mother tongue stated in the constitution: *Persons belonging to national minorities have the right to study and receive instruction in their mother tongue, at all levels and forms of education with appropriate request, according to the present law.*

As it is obligatory to study Romanian by all Romanian citizens, minority language education can only occur in addition to Romanian language instruction.

Article 119 guarantees this in a group setting:

(1) *Taking into account local needs, groups, classes, sections or school units with teaching in the languages of national minorities may be established at request and in accordance with the provisions of this law.*

(2) *Paragraph (1) of this article shall be implemented without prejudice to the learning of the official language and the teaching in this language.*

Article 121 guarantees this at an individual level: *Pupils belonging to national minorities that attend schools with tuition in Romanian shall be granted, at request and according to the present law, the study of the Language and the literature of the mother tongue as well as the history and traditions of the respective national minority, as school subjects.*

Article 123 provides conditions for post-secondary education in minority languages:

(1) *Within higher educational institutions run by the state, groups, sections, colleges, faculties teaching in mother tongue may be organized, according to the law, at request. In this case, the acquiring of the specialized terminology in Romanian language shall be assured. At request and according to law, multicultural higher educational institutions can be established. The languages of teaching shall be determined in the foundation law.*

(2) *Persons belonging to national minorities shall have the right to set up and manage their own private higher educational institutions according to the law.*

(3) *Institutions of higher education with multicultural structures and activities shall be encouraged for promotion of harmonious interethnic relations and of integration both at national and European level.*

(4) *All Romanian citizens can register and study at all educational forms teaching in Romanian*

⁹⁷ For reference, see MINERLES at http://www.minelres.lv/NationalLegislation/Romania/Romania_education_excerpts_English.htm, accessed October 22nd 2006.

or in the languages of national minorities irrespective to his mother tongue or to the language in which they studied previously.

Article 126 stipulates proportional representation of staff in administrative structures. Thus: *The teaching staff belonging to national minorities shall be proportionally represented in the managing boards of educational units and institutions with classes, sections and groups providing tuition in the languages of national minorities, in compliance with their professional competence.*

The school curricula elaborated by the Ministry of Education and Research, based on which textbooks are edited, do not prescribe either the presentation of minority groups and the inclusion of their presence over time in history books, nor their cultural contributions and specifics in various subjects. The problem of discrimination targeting the Roma minority most frequently is avoided as well. The school curricula, the course books and pedagogical materials do not contain relevant information regarding the Roma. Moreover, history taught in schools is entitled not "A History of Romania", but "The History of the Romanians", and as a result, the history of national minorities is completely excluded. Moreover, the subject called "The History of the Romanians" contains negative stereotypes concerning members of those groups that are (ethnoculturally) non-Romanians. Negative stereotypes against minority communities (Hungarians, Turkish, Roma, etc.) are strong in many school textbooks, pedagogical materials and special workbooks, used by students in schools.

The introduction of some optional courses, like the "History of the Jews: the Holocaust" does not change the situation fundamentally, since this subject is not a part of the mainstream compulsory curriculum, and the choice to teach it or not is up to instructors and only the more liberal ones will opt for it.

Secondly, statistical data show deficiencies in the education of persons belonging to national minorities. The percentage share of Romanians within the category of university graduates is 7.34%, whereas that of the Roma it is only 0.17%, of the Ukrainians – 2.50%, of the Turks – 4.13%, and of the Hungarians – 4.92%. While the share of Romanians without education is 5.02%, the share of Roma is 34.30%, of Turks 29.55%, of Ukrainians 9.51%. In addition, there is a higher number of unqualified personnel in minority language instruction at all levels. The lack of qualified teaching personnel and the lack of textbooks in minority languages result in poorer results of students belonging to these communities studying in their own language.

A study carried out by Pro Europa League (Tîrgu-Mureş), the goal of which was to learn about mentalities of students, teachers and parents via surveys applied in 12 counties, revealed interesting facts about discrimination. The results obtained showed that in several schools more than half of the teachers considered segregated education for Roma to be acceptable; among students, a third could not accept Roma colleagues; among parents, a third considered the same for their children. Negative stereotypes were identified as directed not only against Roma, but also against other minorities. The school education often did not combat negative stereotypes regarding minority communities, and sometimes even contributed to their spreading. The analyses of history textbooks and manuals, combined with the survey results, exposed this reality.

Official data of the Ministry of Education and Research show that there is essential shortage of qualified teachers for minorities. For example, in Timiș county, Ukrainian language education is provided by 26 persons, of which 20 are not qualified. There is a substantial shortage of textbooks in minority languages: in 11th grade, of 26 subjects, only 6 have Hungarian language textbooks and only 4 German; in total, of 215 textbooks for 11th and 12th grades, 15 were

translated into Hungarian, 5 into German, and none for other communities.

Overall results obtained by minorities during official state exams are lower than the results of the majority (e.g. in Bihor county, the exams average of 8th graders in 2006 was the following: 7.58 for Romanians, 7.36 for Hungarians, 7.48 for Slovaks). The consequences can be observed in the level of higher education among the members of various communities presented above. The Roma community is sometimes exposed to direct discrimination, although more frequently, discrimination is a kind of 'passive discrimination', namely, teachers often do not care about Roma students, they are not involved in any activities at schools, they pass grades without acquiring enough knowledge. Within Roma communities, one can often meet persons who 'finished' 8-10 classes, but remained actually illiterate. Another widespread phenomenon is that Roma students are sent to schools for mentally disabled. In Tîrgu-Mureş, over 90% of the students of this institution are Roma. Segregation of Roma is commonplace: only in Sălaj county 12 segregated schools have been identified.

One more threat to the existence of education in minority languages relates to financial matters, because the number of students in classes with minority languages instruction is usually lower than the number of students attending the classes with Romanian teaching. This leads to the unwillingness of school managers to maintain 'unprofitable' classes with a small number of students. Another problem is that in mixed schools, minority language classes are often treated as 'less important' or less of a priority than classes with the instruction in Romanian, resulting in less attention, poorer instruction etc. Therefore, it is no surprise that these deficiencies discourage parents who otherwise, would like to send their children to minority language classes: they end up having their child educated in Romanian.

The education for Roma is a special issue. There is a growing trend of pursuing a policy based on positive (reparatory) actions:

- quotas introduced for Roma in high schools and universities, regrettably, this measure can not be fully used, because the majority of Roma children have failed primary school. There are several explanations for failures in registering for elementary education: abandonment or flunking of elementary school; poverty, the low level of education of parents (the educational system in Romania is still based on the assisted learning outside school, i.e., with the help of parents), psychological trauma from the experienced discrimination and, last but not least, some traditions and ethnocultural specifics of Romani population (early marriages, disdain and distrust of education etc.). In addition, there is the disproportionately high percentage of Roma students (90% or even higher) in schools for mentally disabled children, although many of these students have no disabilities of any sort.
- Inclusion of the Romani language, culture and history in the curriculum, although only 490 out of 280,000 acting teachers in Romania, or 0.18%, are Roma trained by the Ministry of Education (CREDIS Long Distance Learning College, Bucharest University and some other institutions) in 2000 – 2005 and currently teaching Romani language, history and culture to approximately 220,000 Roma students (who identified themselves as Roma) starting with pre-school and ending with high school. The majority of Roma teachers are engaged in primary and secondary schools (students' age is 7 – 15 years).
- Establishment of Roma school inspector positions in all of 42 counties of Romania in order to facilitate the access to education of Roma children.
- Introduction of the "Second Chance" programme for Roma youth who dropped out of compulsory education.
- Introduction of school mediators for improving the relationship between the Roma communities and schools.

In spite of all these positive actions, there is a wide discrepancy between the educational provisions available for Roma and non Roma students. Therefore, commendable endeavours of the Romanian government to ensure equal chances for education for disadvantaged groups have been supported by the EU. In particular, such a support has been provided for the development and implementation of a National Educational Strategy for the period 2000 – 2010, which focuses on education inclusion, desegregation, improvement in learning conditions, upgrading the quality of education and school retention. The Educational Strategy has two main components: institutional development (teachers and school mediators training, elaboration of teaching materials) and a grant scheme (rehabilitation of schools and kindergartens, acquisitions of teaching materials and equipment). The improvement of the situation regarding Roma education is also a top priority for the Decade of Roma Inclusion (2005 – 2015), and within its framework, the Roma Education Fund supports different projects aimed at shaping public policies including desegregation, decreasing the discrepancies between Roma and non Roma education, and offering equal access to quality education.

Discrimination

Discrimination (including racial and/or ethnic discrimination) is to be punished according to the provisions of *Cabinet Ordinance no. 137 of August 31st 2000 regarding the prevention and sanctioning of all forms of discrimination*, further elaborated by law No. 324/2006. Discrimination is thus defined in Article 2(1) as: *any difference, exclusion or restriction on grounds of race, nationality, ethnicity, language, religion, social category, convictions, sex, sexual orientation, age, handicap, non-contagious chronic illness, HIV infection, affiliation with a disadvantaged group, as well as any other criterion whose aim or effect is restraint, inhibition of knowledge, the use and exercise, in conditions of equality, of human rights and fundamental freedoms or that of rights recognized by law, in the political, economic, social and cultural fields or in any other fields of public life.*

In order to guarantee equality and to combat discrimination, the National Council for Combating Discrimination was created with the following attributes (in conformity with the Cabinet Ordinance no. 137 of August 31st 2000 regarding the prevention and sanctioning of all forms of discrimination, with subsequent modifications made by the Law 48/2002):

- Investigation and punishment of discriminatory deeds and acts;
- Application and control of the observance of the Ordinance's prescriptions;
- Harmonization of normative or administrative dispositions regarding acts that oppose principles of non-discrimination.

Although Article 19(2) of the Ordinance stipulates that *"in the practice of its attributions, the CNCD runs its activity independently, these activities are not restricted or influenced by other institutions or public authorities"*, in reality the institution *"is organized and functions as a special body of the central public administration that is a legal entity and is subordinated to the Cabinet"* (Cabinet Decision no. 1194/2001 regarding the organization and functioning of the CNCD). The CNCD was formed of civil servants proposed by the Ministry of Public Information, the Ministry of Labour and Social Solidarity, the Ministry of Justice, the Ministry of Health and Family, the Ministry of Education and Research and the Ministry of the Interior; the members of the Board of Directors were validated (and selected out of three proposals of every ministry) and the President of the Board was named by the Prime Minister. The involvement of the Cabinet is also evident in the fact that in its first two years of existence, the Council had three presidents named by the head of the executive. Taking into account the fact that with every new Cabinet, the president of the CNCD has been changed as well, this position is clearly a political (and politicized) one.

Monitoring of the CNCD functioning has so far revealed a number of deficiencies, including inefficiency that becomes evident from its *Activity Report*. As an illustration, in 2004, the CNCD (having a budget of 1,988,700 RON, or around 500.000 €) applied 31 sanctions, out of which 11 were for racial discrimination: 6 cases for discrimination against Roma, 3 cases against Romanians (thus, statistically, after the Roma, the majority population is the most discriminated), one case each against Jews and Hungarians. In ten cases the sanction was a warning, in one case a fine of 600 RON (around 150 €).

Another major problem is the low visibility of CNCD and thus the low impact on the public opinion of the decisions adopted by the Council, also the low level of awareness of the existing antidiscrimination legislation. Although the strategy of the CNCD over the past few years was to concentrate not so much on punishment but on awareness raising and prevention, was done so far.

With all the shortcomings with regard to the efficiency of the CNCD, the adoption of the antidiscrimination legislation has nevertheless had an important positive impact. Over the first years of its existence, the main objective of the CNCD was amending the existing legislation in such a way as making it as inclusive as possible, also providing for a wider interpretation of discrimination by introducing the notion of both direct and indirect discrimination, and improving the collection of evidence (the use of statistics for indirect discrimination, the possibility for the inverse proof collection).

Some of the resolutions of the Council have the potential to induce public debates, thus bringing to the public attention issues that would not otherwise raise widespread interest. The activity of the Council has also led to lower level of discrimination against Roma, although, these positive actions should be complemented with a large scale activities aimed at raising awareness on the meaning and forms of discrimination.

Access to information and mass information

As set forth in the Constitution, censorship is forbidden and the right for free access to information is guaranteed. There is no special law on the media, because the Romanian media opted for self-regulation.

According to the governmental *Emergency Ordinance No 31/2002*, extremist speech, hate speech and fascist propaganda are prohibited. This ordinance was later being ratified (in a modified form) by *Law No 107/2006*. This legislative act interdicts *organizations and symbols of fascist, racist or xenophobic character*; moreover, the establishment of such kind of organizations is to be sentenced to between 3 and 15 years of imprisonment. In addition, Article 5 states that the promotion of the cult of persons who committed war crimes or crimes against humanity, or promotion of fascist, racist or xenophobic ideology through propaganda by any means, in public, is a criminal act, to be punished by law with detention between 3 months and 3 years and suspension of certain rights. This law also recognised for the first time that during WWII, Roma population of Romania were victims of Holocaust. However, in practice, most provisions of this legislation have not yet been applied.

The *Law No 544/2001 regarding the free access to public interest information* requires that in those counties in which citizens belonging to a national minority represent more than 20% of inhabitants, the public information will be posted also in the language of the respective national minority.

Cultural Heritage and its protection; restitution of nationalised church property

There are no special provisions guaranteeing the preservation of the cultural patrimony of minority communities.

Under communist regime, the confiscated cultural patrimony of ethnic and religious communities reached a condition of degradation. Certain funds have been allocated from the local budgets for recovering some of them, but there is differential treatment of the minority communities' patrimonies; besides, authorities state that minorities should obtain support from the "kin state" for their monuments.

Museums, which should reflect the ethnocultural diversity of Romania and educate visitors in this sense, are not preoccupied with the presentation of minorities' cultures. Some minority communities have managed to operate their own museums; this is an important possibility for the promotion of these communities' culture, but, this way, the problem of supporting intercultural dialogue and enrichment is not solved. National minorities get support from the State for publishing their own publications, or for cultural purposes.

Restitution of nationalised property (real estate) has been regulated by *Law no. 10/2001*. Legal provisions can be applied to any property abusively taken away from owners between March 6, 1945 and December 22, 1989. Goods are to be returned or owners are to be paid reparations for the lost property. This measure comes after over a decade of citizens' and institutions' (such as Churches and religious communities) legal actions in court to retrieve their property lost during the communist regime. These actions were initiated after the fall of the Ceausescu dictatorship by former owners. Originally, no legal framework existed, but by the late 1990s, the judicial process became more accessible, partly as a result of cases that ended up at the European Court of Justice, making decisions in favour of the rightful owners. Subsequently, the Romanian government was compelled to put forward a system of restitution and/or compensations for nationalised or confiscated property in place. However, the increasing number of positive rulings was unnerving local authorities. Nationalised property, especially in the central part of cities, had been either turned into office space of state institutions (such as the Fiscal Authorities, the National Bank, institutions of education, etc.) or into apartment buildings, where usually employees of the state and party *apparatchiks* lived, paying derisory sums for rent. With restitution, local authorities were put in great difficulty, being forced to erect new buildings for institutions of public interests and find new homes for the persons renting nationalised property.

In areas where national minorities had been present, the issue of restitution also gained nationalist connotations. Some of the historical Churches of the Hungarian minority lobbied for over a decade to regain their schools and land, thus fuelling interethnic conflict at local (and national) level; there were several incidents all over Transylvania when the Orthodox priest refused to hand over the church to its rightful owners, the Greek Catholic Eparchy, causing religious conflict in local communities.

The authority in charge of managing the restitution process is the national Authority for Property Restitution (Autoritatea Nationala pentru Restituirea Proprietatilor, ANRP), whose creation and functioning is regulated by *Cabinet Decision no. 361/2005 regarding the creation, organisation and activity of the National Authority for Property Restitution*. The Authority is assigned

- (a) to offer assistance and methodological consulting to local authorities and legal persons owning nationalised property for the correct enactment of restitution law;
- (b) to monitor the application of *Law no. 10/2001*, analyse and validate/invalidate decisions of territorial commissions enacting *Law no. 10/2001*;

- (c) to account for the amount of compensations paid to former owners of nationalised property, situations of church property restitution and compensation, situations of restitution and compensation of national minorities;
- (d) to periodically report to the Cabinet regarding the implementation of *Law no. 10/2001*;
- (e) to propose draft laws for the regulation of property belonging to Romanian citizens, passed into the property of the Bulgarian, Moldovan and Ukrainian states;
- (f) to authorise reciprocal compensations between state and compensated owners;
- (g) to solve contested decisions, to archive documentation and offer assistance to territorial commissions.

The Authority functions in the direct subordination of the Chancery of the Prime Minister and its budget is allocated as part of the budget of the Chancery of the Prime Minister.

The text of the law and the structure of the Authority clearly reveal that the restitution of property that belonged to religious communities and national minorities are treated separately from restitution to individual owners. Given the politicised quarrels over the years, it is not surprising that the Romanian government has chosen to treat the issue of property return as a specific aspect of collective rights. Currently, around three quarters of the requests handed in by the Hungarian historical Churches have not yet been solved.

Effective participation in cultural, social and economic life

If one looks at the statistical data regarding the participation of persons belonging to ethnic minorities in cultural, social and economic life, one can observe major deficiencies. Moreover, there are differences in the labour market as well. The percentage of persons belonging to national minorities is considerably smaller in “strategic” branches like electric and thermal energy, transports, storage, post and telecommunications, financial activities, real-estate transactions, public administration. The percentage of Roma is very low in well-paid branches⁹⁸. Similarly, in different occupational groups the situation is unbalanced, as minorities tend to be in an unfavourable situation as far as “top” (well-paid) positions that need better qualifications are concerned. The underrepresentation of minorities in the public sector is a widespread phenomenon, although some measures have been taken to address this – for instance, in the Police.

Religion

Freedom of conscience has been guaranteed in the 1992 Romanian constitution and has remained one of the fundamental rights enlisted in the revised 2003 constitution. Just before the accession into the European Union, the Romanian Parliament passed numerous laws, including *Law no. 493/2006 regarding religious freedom and the general regime of cults*. The law replaces *Decree no. 177/1948*, stipulating, *inter alia*, the following:

- the Romanian state respects and guarantees the fundamental freedom to reasoning, conscience and religion (art.1);
- the law defines religious freedom as the right of citizens to freely choose, manifest (individually and collectively, in private or in public) the rituals of one’s given confession (art. 2);
- the Romanian state declares to have no official religion (art. 7) and, as a result,
- the different Churches will have to, and given the right to, collect taxes from the members of their congregations in addition to public funds given at the request of the respective Churches (art. 10);

⁹⁸ The percentage of Roma working in education (0.13%) is higher than of those working in the financial, banking and assurance activity domains, which shows that besides adequate education, other selection criteria are being taken into consideration.

- any form, means and acts aimed at the attack of a religion, or inter-confessional quarrelling is prohibited (art. 13);
- religious cults have the right to organise their internal institutional structure according to their will and in the language they deem necessary, however, in their relations with the state, they have to use Romanian (art. 14 and 16);
- the number of Romanian citizens necessary to register a new confession has to be at least 0.1% of the total population of the country according to the last census (art. 18);
- a religious cult can be revoked of the recognised quality of a cult if the latter commits grave crimes against the national security of the state, state order, health and public moral (art. 21);
- religious cults can establish institutions of education at any level of education, not only in order to train personnel for serving the religious community (art. 34-39);
- religious associations are legal bodies of at least 300 individuals, citizens and residents, forming for religious worship (art. 40);

Even before this law passed, a significant number of NGOs protested its anti-democratic spirit and its discriminative provisions. In addition, after the law was adopted, international organizations, as well as the United States, expressed its disappointment with the deplorable character of this piece of legislation and several confessions already recognised in Romania refused to sign the proposal. Criticism focused on a variety of different issues.

The most highly debated issue was art. 13 (see above). The Helsinki Committee and other organisations believe that without a clear-cut sanction for ridiculing religious symbols, or provoking inter-religious conflict, the law can become inapplicable, or worse, can lead to the imposition of self-censorship, violating the fundamental right to free expression. Some organisations believe the law is unconstitutional for violating children's rights (art. 3) and for violating the right to a fair trial (access to justice – art. 26, stipulating religious cults' own judicial bodies). In addition, other organisations are discontented that the new law does not clearly state the separation between church and state, moreover, explicitly acknowledges the importance of the Romanian Orthodox Church, creating a precedent for unequal treatment. Last, voices also pointed at the unequal treatment of new confessions willing to register, or religious associations, in comparison to already existing confessions and civic associations. According to law, the number of worshipers necessary to register a new confession is at least 0.1% of the population of the country (roughly 20,000 individuals), while other confessions – already registered in Romanian – do not count for that many members. Religious associations find themselves to be victims of the same discriminative logic, since in Romania a civic association can form with a minimum of 3 members, whereas religious associations are required 300 according to the new law.

Although public opinion harshly criticised the law and over 20 NGOs are determined to file complaint with the Constitutional Court on allegations of unconstitutionality, the new law of religious cults does clearly state some principles and does grant rights that have not been stated and granted, respectively, for a very long time.

Romanian Specifics: Roma Strategy

In an attempts to address the issues that deeply affect Roma citizens in Romania, the “Governmental Strategy for Improving the Condition of the Roma“ (hereinafter the *Roma Strategy*) was adopted in April 2001 and recently modified and completed by Cabinet Decision

No. 515/2006⁹⁹. The Roma Strategy is the first Governmental initiative that has a comprehensive and systematic approach for the numerous problems facing Roma communities and represents one of Romania's engagements in the negotiations process for European accession. The Roma Strategy combines two perspectives about the Roma problems – the one of discrimination (Roma NGO's perspective) and the one of poverty (the perspective of the Cabinet).

The Roma Strategy

According to the Roma Strategy, the aim is the “significant improvement of the condition of the Roma through the promotion of social inclusion measures”¹⁰⁰. The “duration of the Strategy is of 10 years (2001 - 2010), with a master plan of measures for the period 2006 – 2008”¹⁰¹. The initial version of the Roma Strategy attempted to address issues in ten domains, but in the present format some of the domains were combined, so there are now six domains defined:

- A. Public Administration, community development, communication and civic participation;
- B. Housing;
- C. Health;
- D. Justice and public order;
- E. Economy, social security
- F. Child protection, education, culture and denominations.

According to the new document issued¹⁰², there are several structures set up for a good level of organization and coordination for the implementation of the Roma Strategy:

- the working group for Public Policies for Roma;
- ministerial commissions for Roma;
- local experts for Roma issues.

It is expected that setting up of these structures will be accomplished according to expectations outlined in the Master Plan of Measures for 2006-2008

1). The Working Group for Public Policies for Roma is set up within the “Inter-ministerial Council for Education, Culture, Research, Youth, Sports and Minorities”¹⁰³. The Working Group for Public Policies for Roma will coordinate and monitor the implementation of public policies for Roma, including the activities nominated by the Master Plan of Measures for 2006-2008.

It will consist of State Secretaries from relevant Ministries and the National Agency for Roma (ANR) (executive body for the Master Plan of Measures for 2006-2008). It is expected that the ANR present to the Working Group the position of representatives of Roma NGOs, a sub-committee set up in the subordination of ANR.

The Working Group for Public Policies for Roma is expected to have regular quarterly meetings and will analyse the extent of the implementation of the Master Plan. The General Secretariat of the Cabinet in close collaboration with ANR staff will form the technical secretariat of the Working Group for Public Policies for Roma.

⁹⁹ Government Decision No. 515/19 April 2006, for modification and completion of the Government Decision No. 430/2001 regarding approval of the Governmental Strategy for Improvement of the Condition of the Roma

¹⁰⁰ Roma Strategy, Chapter III, Scope and general objectives of the strategy.

¹⁰¹ Roma Strategy, Chapter V, Duration

¹⁰² Roma Strategy, Chapter VIII, Structures

¹⁰³ Government Decision No. 750/2005 regarding setting up of permanent ministerial commissions.

2). Ministerial Commissions for Roma

The Roma Strategy requires the Ministries involved in implementation of the Roma Strategy to be responsible for the organisation, planning, coordination and control of the execution of activities in their field of responsibility, according to the Master Plan. These Ministerial Commissions for Roma are subordinated to the Working Group and are expected to meet on a monthly basis in order to analyse the status of implementation of the specific measures they are responsible for.

Each Commission is chaired by the State Secretary member of the Working Group, and has 4-5 members (heads of directions and experts) and one member delegated by ANR (ANR staff).

3). County Offices for Roma

The County Offices for Roma are structures at county level working within the Prefecture, subordinated to the Ministry of Public Administration and Internal Affairs. There is a “technical subordination” of the office to the ANR, responsible for coordinating activities. The main role of County Offices is the organization, planning and coordination of the activities defined according to the Master Plan. County Offices for Roma will consist of 3-4 experts nominated by the Prefect, of which at least one must come from the Roma community in the county.

It is expected that at county level mixed working groups for Roma will be established, consisting of Deputy Prefects, regional staff of the ANR, representatives of decentralised public services at county level, school mediators, health mediators, school inspectors and Roma teachers as well as representatives of non-governmental organizations and members of Roma communities. Their role is to analyse, plan, organize and implement sectoral activities at county level.

The mixed working groups are supposed to meet regularly on a monthly basis, and the secretariat will be ensured by the Prefecture.

4). Local Experts for Roma

The local experts for Roma are defined as the main mediators between the local Roma communities and institutions of the local public administration (at city or village/commune level). They are responsible for organising, planning, coordinating and implementing, at local level, the Master Plan.

According to the Roma Strategy, the local expert is a person well acquainted with the problems faced by members of Roma communities, recommended by the local Roma community for representation in City Halls. The experts are to be hired by City Halls and are to be subordinated both to the Mayor, as well as to the County Office for Roma.

II.1.4 Ukraine

II.1.4.1 Legal base – general overview

The Declaration on the State Sovereignty of Ukraine, Ukraine’s Declaration of Independence, the Declaration on the Rights of Nationalities, the Law on National Minorities, the Ukrainian Constitution¹⁰⁴ and the the Law on Local Self-Government served as the legal basis for the development of the State ethnic policy. A number of legal principles and procedures protecting

¹⁰⁴ The Constitution of Ukraine which replaced the Constitution of the Ukrainian Soviet Socialistic Republic was adopted on June 28, 1996.

the interests of national minorities are set forth in the Law on Citizenship, the Law on Citizens' Associations, the Law on Freedom of Conscience and Religious Organisations, the Law on Education, the Law on Languages, the Print Media (Press) Act and the Principles of Ukrainian Cultural Legislation and complemented by the Law on Education, the Foundations of legislation of Ukraine on culture, Civil and Criminal Codes.

Following Ukraine's Declaration on the State Sovereignty (24 August 1991), the Declaration on the Rights of Nationalities was adopted (1 November 1991), which clearly indicated the State's intent to promote harmony in interethnic relations in the country and the cultural development of all national minorities. The Declaration emphasises equal political, economic, social and cultural rights for representatives of all nationality groups, and stressed that discrimination based on ethnic origin is prohibited and punishable by law.

One of the most important legislative acts pertaining to promotion of the rights and freedoms of national minorities is the Law on National Minorities, which was adopted on 25 June 1992.

Since the adoption of the Law on National Minorities, a network of structural units dealing with nationality and migration affairs has been established and is now functioning as part of government administrations.

Pursuant to the provisions of the Law, the State has adopted a number of sublegal acts, including a State Programme for the revival and development of education among ethnic communities in Ukraine and a comprehensive Ukrainian language programme.

In addition to the Law on National Minorities, priorities for the implementation of State policy in the sphere of interethnic relations are also determined by the Concept for the development of national minority cultures, which was approved by the Cabinet of Ministers on May 31, 1995 and focuses primarily on the need to revive the customs and traditions of Ukraine's national minorities, to promote the development of their arts at both the amateur and professional levels and to foster the conditions for the training of creative intelligentsia.

In 2002 the Cabinet of Ministers approved a Programme for the adaptation and integration into Ukrainian society of deported Crimean Tatars and persons of other nationalities and for their cultural revival and development, in addition to a Programme to promote the social development and adaptation of Crimean Tatar youth, both of which are now being implemented.

These programmes call for the establishment of a multiethnic cultural centre, the publication of educational literature for former deportees, assistance to the Gasprinsky Republican Crimean Tatar Library and to the Crimean Ethnographic Museum, as well as other measures.

The Protection for the rights and freedoms of national minorities and cooperation in this sphere through the conclusion of international treaties is also enshrined in Ukrainian law.

The efforts undertaken by intergovernmental bilateral Ukrainian-German, Ukrainian-Hungarian, Ukrainian-Romanian and Ukrainian-Slovak commissions on promoting the rights of national minorities are aimed at responding promptly to the most pressing problems of national minorities.

In establishing the regulatory legal framework for interethnic relations, the Ukrainian State has taken into account the provisions of the principal international acts. Specifically, Ukraine signed the Framework Convention for the Protection of National Minorities on 15 September 1995, and on 9 December 1997 the Verkhovna Rada passed an act on its ratification. In accordance with

Article 9 of the Ukrainian Constitution, the Framework Convention is an obligatory part of the national legislation.

The next step toward the introduction of international standards in promoting the rights of national minorities was the ratification on 15 May 2003 of the European Charter for Regional or Minority Languages, which was signed on behalf of Ukraine on 2 May 1996. Its provisions apply to the languages of 13 national minorities in Ukraine: Belarusian, Bulgarian, Hungarian, Gagauz, Greek, Jewish, Crimean Tatar, Moldovan, German, Polish, Russian, Romanian and Slovak.

As part of the efforts to comply with the provisions of the European Charter for Regional or Minority Languages, on 21 October 2004 the Ukrainian Ministry of Justice registered the Model Regulation on national minority cultural-education centres (Sunday schools), which was prepared by the Ukrainian Ministry of Education and Science and the State Committee on Nationalities and Migration.

However, there exists a strong necessity to furthermore adopt the national legislation to relevant international and legal documents in the field of interethnic relations and protection of minorities' rights, in particular, to the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages.

Moreover, the rapid development of interethnic processes and the growing level of activity among the members of ethnic communities, as well as their desire to participate more effectively in these processes, conditions the need for the mechanisms of implementation and development of the legal principles of State ethnic and nationality policy to be improved, and a strategy of improvement of the existing political and legal base regulating ethnic and national processes to be developed.

II.1.4.2 The system of responsible bodies

A system of the state bodies responsible for promoting human rights, which include the rights of national minorities, has been established and is operating in Ukraine.

The Ukrainian State Committee on Nationalities and Religions is the central government body that is responsible for implementation of the State policy in the area of interethnic relations and promotion of the rights of national minorities, also for general administrative activities in this sphere, as well as inter-agency coordination and functional regulation.

According to the tasks it is entrusted with, the Committee is supposed to work out and implement the activities directed at the preservation of interethnic peace and harmony, at the removal of the preconditions for ethnic conflicts. It is also supposed to participate in the development of the public policy, to prepare drafts of the relevant laws and other legislative acts, to conduct operative analysis of the situation which takes place in social and economic, demographic and cultural life of Ukraine's national minorities. The Committee is also a platform for coordination of the executive bodies' activities aimed at meeting the spiritual and educational needs of Ukraine's ethnic communities; it is responsible for the control over the observance of the effective legislation in the interethnic relations sphere; the Committee is also supposed to promote the activity of national minorities' public organisations in Ukraine.

Among other things, the following activities are currently being carried out by Committee: defining the measures to provide state support for the preservation of the cultural heritage of

Crimean Karaims and Krymchaks, and measures to preserve and develop the culture and way of life of the Hutsul, Boyko and Lemko people as distinctive ethnographic groups of Ukrainians.

The Committee has initiated amendments to the European Charter for Regional or Minority Languages Ratification Act. It has proposed that its provisions are to be applied to the languages of another four national minorities: Karaim and Krymchak, which are on the brink of extinction, and Armenian and Roma, which are in need of State support.

The Committee also prepared a Programme for the spiritual development of Roma up to 2006. As a part of the Programme, the Committee for Human Rights, National Minorities and International Relations of the Verkhovna Rada, with the participation of the State Committee on Nationalities and Migration, held on 12 April 2005 hearings on social, cultural and educational needs of the Roma minority of Ukraine.

The President of Ukraine, the Cabinet of Ministers of Ukraine and other bodies of the executive power, in particular, the Ministry of Justice, Representative of the Verkhovna Rada (Parliament) on human rights (Ombudsperson) exercise control on the issue of ensuring the national minorities' rights and therefore are the constituents of the system of responsible bodies.

Control over the observance of the effective legislation in the sphere of ensuring the national minorities' rights is conducted also by the Constitutional Court of Ukraine and courts of general jurisdiction.

On issues concerning ensuring the exercise of rights of national minorities Ukraine cooperates with the following international organisations: the UN, the OSCE, the Council of Europe, the International Organisation on Migration (IOM), UNESCO, also with the EU and other organisations.

II.1.4.3 Minority's rights and obligations specified

The right of equality before the law

The main political document which proclaimed equal rights of national minorities with the ethnic majority and determined foundations of state policy in the field of international relations is the Declaration on the Rights of Nationalities, adopted on November, 1, 1991 by the Verkhovna Rada.

The right of equality before the law in all fields of economic, social, political and cultural life was also fixed by Article 24 of the Constitution of Ukraine: "Citizens have equal constitutional rights and freedoms and are equal before the law. There shall be no privileges or restrictions based on race, colour of skin, political, religions and other beliefs, sex, ethnic and social origin, property status, place of residence, linguistic or other characteristics." The right of equality before the law and prohibition of discrimination on ethnic characteristics were also fixed in the Law on National Minorities in Ukraine. In Article 1 of this Law it is pointed out: "Ukraine guarantees the citizens of the republic regardless of their national origin equal political, social, economic and cultural rights and freedoms, supports development of national self-awareness and self-manifestation. All citizens of Ukraine enjoy protection of the state on equal grounds. When ensuring the rights of persons belonging to national minorities, the state proceeds from that they are an integral part of recognised human rights." In accordance with Article 9 of this Law "Citizens of Ukraine belonging to national minorities have the right, accordingly, to be elected or nominated on an equal footing on any posts to bodies of legislative, executive and judicial power, local and regional self-government, in the army, at enterprises, in institutions and

organisations.” Article 18 of this Law proclaims: “Any direct or indirect restriction of the rights and freedoms of citizens on national characteristic is prohibited and punished by the law.”

The right to choose or restore a nationality

In the preamble to the Constitution of Ukraine it is pointed out that the Ukrainian people consists of citizens of Ukraine of all nationalities. (According to the Constitution of Ukraine, the term “the Ukrainian people” means the citizens of Ukraine of all nationalities and the term “the Ukrainian nation” – the citizens of the Ukrainian nationality). Recognising the multiethnic Ukrainian people as bearers of sovereignty and the only source of power in Ukraine, the Constitution at the same time determines the structural components of the Ukrainian society – the Ukrainian nation, national minorities and indigenous peoples and places a duty on the state to promote the development of their ethnic, cultural, linguistic and religious identity (Article 11).

The national legislation does not contain the list of groups of citizens belonging to national minorities. In Article 3 of the Law on National Minorities in Ukraine it is pointed out that “the groups of citizens of Ukraine, who are not Ukrainians by nationality, express the sense of national self-awareness and community between themselves belong to national minorities”. We shall point out that in accordance with the so-called “zero option” adopted by Ukraine, all citizens of the former USSR who at the moment of proclamation of independence of Ukraine (August, 24, 1991) were living in its territory and also all persons regardless of race, colour of skin, ethnic origin, social and demographic and other signs, who at the moment of acquiring in force of the Law on Citizenship of Ukraine (November, 13, 1991) resided in the territory of Ukraine and were not the citizens of other states became its citizens.

Article 11 of the Law of Ukraine on National Minorities in Ukraine proclaims: “The citizens of Ukraine have the right to choose freely or restore a nationality”. Forcing citizens in any way to renunciation of their nationality is not allowed. According to the Article 13 of this Law “Citizens belonging to national minorities are free in choosing scale and form of realisation of rights which are given to them by the legislation and realise them personally and also through relevant state bodies and public associations”.

The right for maintenance of ethnic, cultural, language and religious identity

The right for maintenance of ethnic, cultural, language and religious identity is fixed by Article 11 of the Constitution of Ukraine: “The State promotes the consolidation and development of the Ukrainian nation, of its historical consciousness, traditions and culture, and also the development of the ethnic, cultural and religious identity of all indigenous peoples and national minorities of Ukraine”. The rejection of any kind of assimilation policy is fixed by Article 6 of the Law on National Minorities which states: “The State guarantees all national minorities the rights for national and cultural autonomy: using and studying a native language or learning a native language in state educational institutions or through national cultural societies, development of national cultural traditions, using national symbols, celebration of national holidays, professing own religion, satisfaction of needs in literature, arts, mass media, creation of national cultural and educational institutions. Monuments of history and culture of national minorities, in the territory of Ukraine are protected by the law”.

According to the legislation, national minorities have the right to establish their own mass media and receive a license for their functioning. Article 8 "National minorities' rights in the sphere of

culture" of Ukraine's the Foundations of legislation of Ukraine on culture¹⁰⁵ declares that citizens of any nationality have the right to "establish mass media and publishing houses".

The right to use national minority languages

Although the only state language in Ukraine is Ukrainian (this provision of Law on Languages, adopted by the parliament of USSR on 28.10.89, was repeated by the Ukrainian Constitution), the right to use national minority languages is foreseen by the Ukrainian legislation. In particular, "equal rights and possibilities concerning using languages of all national minorities, who reside in the territory of Ukraine, in the field of culture, are guaranteed by the state" in accordance with Article 4 of the Foundations of the Legislation of Ukraine on Culture. At the same time, certain preferences for Russian language are implied by such formulations as, for example, "free development, use and protection of *Russian* and other languages of national minorities of Ukraine, is guaranteed."

The right to use national minorities' languages in the mass media (radio, TV, press) is specified by Article 6 of Ukraine's Law on National Minorities in Ukraine and by Article 33, Part 4 of Ukraine's Law on Languages in Ukraine: "Other nationalities' languages also may be the languages of official mass media".

Article 8 of Ukraine's Law on National Minorities in Ukraine states that: "in the work of state authorities, public associations, as well as enterprises, institutions and organisations, situated in the places where the majority of population is formed by a national minority, its language may be used along with the state Ukrainian language". This norm is specified also in Article 3 of the Law on Languages in Ukraine. (However, Article 5 of the Law on Languages provides that citizens have the right to interact with the public bodies "in Ukrainian or another language of their work, in Russian or in a language acceptable to the parties" that implies limited guarantees for the persons speaking languages other than Russian, which is certainly a drawback of the given outdated law)

The right to use one's surname and first name in the minority language is contained in Article 12 of the Law on National Minorities in Ukraine: "Each citizen of Ukraine has the right to use his (her) national surname, first name and patronymic. The citizens have the right of restoring, in the established order, their national surname, first name and patronymic."

According to Article 18 of the Law on Languages in Ukraine, the national minorities' languages may be used in legal proceedings: "legal proceedings may be conducted in the national language of the major part of people residing in one or another locality, and in cases mentioned in the part 3 of the same Article, - in the language, acceptable for the population of this locality. When conducting criminal/civil legal proceedings, persons who take part in proceedings and do not know the language thereof, enjoy the right to familiarise themselves with the material of the case, to take part in legal proceedings with the help of an interpreter. Investigation/court documents are given to persons, taking part in legal proceedings, on their request in translation into their native language or another language which they know".

According to Article 39 of the Law on Languages in Ukraine, the citizens enjoy the right to be named according to national traditions. Their names are spelled in Ukrainian by means of the transcription.

¹⁰⁵ Law № 2117-XII, adopted on 14.02.1992.

According to the existing legislation, only the first name and surname are inscribed in the documents of the representatives of national minorities which traditionally do not have the patronymics.

The right to inscribe the toponyms, sign-boards, legends and other information in the national minority's language is guaranteed by Articles 35 and 38 of the Law on Languages in Ukraine where it is mentioned that, along with the Ukrainian, "the toponyms may also be spelled by means of the national language spoken by the majority of population in certain locality" (Article 38), and in announcements ("along with the text in Ukrainian, its translation into another language may be placed" (Article 35)).

Beginning from 1990s in Ukraine the process of restoring historical names of the settlements in places of national minorities' compact residence has been going on in Ukraine. Decisions on these issues are taken by the executive bodies and local self-government. Till now, more than 30 settlements in Zakarpattia (Transcarpathia) and Chernivtsi Oblasts have received their historical national names; such process is going on in other Ukrainian Oblasts.

The right of national minorities to learn in their native language is guaranteed by the Declaration of the Rights of Nationalities in Ukraine, and secured in the laws of Ukraine on National Minorities in Ukraine, on Languages in Ukraine, on Education, and Ukraine's basic laws on culture.

But it should be stressed that currently Ukraine suffers lack of measures to create proper conditions for preservation and development of national minorities' culture in Ukraine. In particular, scientific research on problems of satisfying the ethnocultural needs of ethnic communities, training the staff, opening the cultural centres, holding the cultural/educational meetings, and development of the minority mass media are needed.

The right for peaceful meetings, associations, expression of views, thinking, conscience and religious worship

Ukraine's legislation guarantees all the citizens the right for peaceful meetings, associations, expression of views, thinking, conscience and religious worship:

"Everyone is guaranteed the freedom of thought and speech, and the right for the free expression of his or her views and beliefs. Everyone has the right to freely collect, store, use and disseminate information by oral, written or other means of his or her choice" (Article 34 of the Constitution of Ukraine);

"Everyone has the freedom of personal philosophy and religion. This right includes the freedom to profess or not to profess any religion, to perform alone or collectively and without constraint religious rites and ceremonial rituals, and not to conduct religious activity" (Article 35 of the Constitution);

"Citizens have the right to assemble peacefully without arms and to hold meetings, rallies, processions and demonstrations, upon notifying in advance the bodies of executive power or bodies of local self-government" (Article 39 of the Constitution of Ukraine);

"Citizens of Ukraine have the freedom of association in political parties and public organisations for the exercise and protection of their rights and freedoms and for the satisfaction of their political, economic, social, cultural and other interests, with the exception of restrictions established by law in the interests of national security and public order, the protection of the

health of the population or the protection of rights and freedoms of other persons" (Article 36 of the Constitution of Ukraine).

Some documents and legislative acts especially stipulate the rights and freedoms of persons pertaining to national minorities:

Article 6 of the Declaration of the Rights of National Minorities says that "Ukrainian state guarantees all the nationalities the right to establish their cultural centres, societies, friendly associations, and unions. These organisations may carry out any activity directed to development of national culture, take mass measures in the order, established by the Law, promote setting up of national newspapers, magazines, publishing houses, museums, art groups, theatres, and cinema studios";

Article 13 of the Law of Ukraine "On national minorities in Ukraine" states that: "Citizens pertaining to national minorities, are free in their choice of extent and form for executing the rights, delivered to them by the legislation, and realise them personally or through the corresponding state authorities and establish public associations. Taking or not taking part, by a citizen of Ukraine, pertaining to the national minority, in the public association of this minority cannot serve as a ground for restricting his (her) rights".

Control over observance of the above mentioned provisions of national legislation is carried out by the President of Ukraine, Cabinet of Ministers of Ukraine and other executive bodies within their authority, and by the Verkhovna Rada's Ombudsman.

According to Articles 7 and 8 of the Foundations of the Legislation of Ukraine on Culture, citizens may establish national cultural associations, creative unions, funds, associations, centres and other public organisations, cultural and artistic institutions, schools, and both mass media and publishing houses as well.

The right for the protection of national minorities from acts of discrimination

Protection of national minorities from discrimination is guaranteed by relevant provisions in a number of legislative acts of Ukraine. For example, Article 24 of the Constitution of Ukraine states that "there shall be no privileges or restrictions based on race, colour of skin, political, religious and other beliefs, sex, ethnic, and social origin, property status, place of residence, linguistic or other characteristics". Similar provision has been fixed in a number of other laws, in particular, in Article 3 of the Law of Ukraine on Local Self-government¹⁰⁶.

Article 34 of the Constitution of Ukraine prohibits activities of political parties and public organisations programmes' aims or activities which are aimed at rousing interethnic, racial, religious hatred. At present, beyond the declaratory provisions of the Constitution, the ban on racial/ethnic discrimination exists primarily in the Ukrainian Criminal Code¹⁰⁷ in Articles 66, 67 and 161. Incitement to racial discrimination is also punishable under Articles 46 and 47 of the Law on Information and Article 3 of the Print Media (Press) Act. The Labour Code of Ukraine also contains a provision banning discrimination: its Article 2-1 (inserted into the Labour Code of 1971 by the Law №871-12, adopted on March 20, 1991) states that "Ukraine shall secure the equality of the labour rights of all citizens, regardless of their descent, social and material status, race, ethnicity, sex, tongue, political views, faith, character or nature of occupation, place of residence or other circumstances."

¹⁰⁶ Law № 280/97-BP adopted on May 21, 1997.

¹⁰⁷ Law № 2341-III, adopted on April 5, 2001.

However, the UN Committee on the Elimination of Racial Discrimination (CERD) is particularly concerned about the absence of any prosecutions under Article 161 of the Criminal Code¹⁰⁸. A number of concerns have also been expressed by the European Commission against Racism and Intolerance (ECRI).¹⁰⁹

This can be explained by the following deficiencies in the current Ukrainian criminal law ban on discrimination:

- Intent has to be proved. The liability referred to by Art. 161 of the Criminal Code can be applied only if there is intent in actions that violate the principle of equality. Yet the particular nature of such offences makes it nearly impossible to prove intent.
- Responsibility can be determined only for unlawful actions against Ukrainian nationals. Similar actions against individuals who are not Ukrainian nationals or who cannot confirm their citizenship are not seen as an offence.
- Only a narrow base of offences related to discrimination is covered by this Article. Many offences against members of minorities that should be treated as crimes according to international conventions are not included into Ukraine's Criminal Code.

In 2004 – 2005, an attempt to work out a separate anti-discrimination law was undertaken by the International Centre for Policy Studies (Kyiv). Draft law named “On protection against racial, national and ethnic discrimination” was submitted to the Verkhovna Rada in 2005. The bill was not adopted prior to parliamentary elections of 2006/2007, and its new version should be developed in order to be considered by the new Parliament. This draft was severely criticised by a number of human rights NGOs and independent experts for its numerous flaws and conceptual shortage of comprehensiveness. The main issue at stake now is to use to full extent the experience of those countries of Central and Eastern Europe that faced similar problems in a process of accession to the European Union. Their national anti-discrimination legislation should be thoroughly analysed and may serve as models for developing a comprehensive anti-discrimination Law of Ukraine.

The right to be elected or assigned to the bodies of state power

Article 9 of Ukraine's Law on National Minorities in Ukraine declares: "Ukraine's citizens who belong to national minorities, have the right to be elected or assigned at equal principles at any positions to the bodies of legislative, executive, judicial power, local and regional self-government, in the Army, at enterprises, in establishments and organisations respectively".

Article 5 of Ukraine's Law on National Minorities in Ukraine stipulates taking into consideration the interests and needs of national minorities by the legislative and executive power, by bodies of local self-government through the permanently acting commissions on international relations and deliberate bodies from the representatives of national minorities.

The right for the access to education

¹⁰⁸ Consideration of Reports Submitted by States Parties under Article 9 of The Convention (31 July – 18 August 2006), Concluding observations of the Committee on the Elimination of Racial Discrimination, Ukraine, Paragraph 9.

¹⁰⁹ European Commission against Racism and Intolerance, Second Report on Ukraine adopted on 14 December 2001 (CRI(2002)23). Strasbourg, 22 July 2002, Paragraph 16

Persons who belong to national minorities have the same opportunities for access to education on all the levels as the ethnic majority has. The Law on Education (Article 3) declares: “The citizens of Ukraine have the right to free education in all the state schools irrespective of the sex, race, nationality, social or property condition, kind and character of activity, world outlook, membership of a party, attitude to religion, faith, state of health, residence or other circumstances”.

At the same time, Ukraine creates the conditions for satisfying specific cultural/educational needs of national minorities. Especially, it was stated in Article 7 of the Law of Ukraine “On national minorities in Ukraine” that “the state takes measures for training the pedagogical, cultural/educational and other national personnel through a net of educational institutions. The state bodies promote national minorities in training the specialists in other countries on the base of inter-state agreements”.

The state organises and finances training of the pedagogical staff for schools where teaching is done in national minorities' languages. Such specialists are trained in 15 higher schools of the country: in the Ternopil State Pedagogical Institute at the faculty of philology - specialists on Polish language and literature; in Zakarpattia Pedagogical Institute (town of Beregove) - pedagogical staff for educational institutions where teaching is done in Hungarian, in Lviv State University named after I.Franko - teachers of Polish language; in Izmail Pedagogical Institute - teachers of Bulgarian and Moldavian languages; in Uzhhorod State University - teachers of Slovak, Hungarian and Romanian; in Volyn State University named after Lesia Ukrainka - teachers of Polish; in Zhytomyr Pedagogical Institute - teachers of Polish; in Mariupol Humanitarian Institute - teachers of new Greek language and literature; in Cherkassy State University - teachers of Russian language and literature; in Chernivtsi State University - teachers for schools with teaching in Romanian; in Chernivtsi High Pedagogical School - specialists in Romanian; in Prykarpattia State University - specialists on Slav philology; Mukacheve Pedagogical School - teachers for elementary school and educators for pre-school institutions where teaching is done in Romanian and Hungarian.

The right to apply to justice authorities

Taking into account that the rights of national minorities form an integral part of human rights, a possibility to apply to justice authorities on issues of protection of their rights is guaranteed to persons belonging to national minorities. Article 55 of the Constitution of Ukraine proclaims that “human and citizens' rights and freedoms are protected by the court. Everyone is guaranteed the right to challenge in a court the decisions, actions or omission of bodies of state power, bodies of local self-government, officials and officers.

Everyone has the right to appeal for the protection of his or her rights to the Authorised Human Rights Representative of the Verkhovna Rada of Ukraine.

After exhausting all domestic legal remedies, everyone has the right to appeal for the protection of his or her rights and freedoms to the relevant international Judicial institutions or to the relevant bodies of international organisations of which Ukraine is a member or participant”.

Minorities' obligations

Article 2 of the Law on National Minorities in Ukraine proclaims: "the citizens of Ukraine of all nationalities are obliged to adhere the Constitution and the Law of Ukraine, protect its state sovereignty and territorial integrity, respect languages, cultures, traditions, customs, religious originality of the Ukrainian people and all national minorities". The duty of the citizens to

respect the culture, the language, the traditions, the customs and rituals of national minorities also have been consolidated by Article 11 of the Foundations of legislation of Ukraine on culture. In accordance with Article 56 of the Law of Ukraine on Education, pedagogical and scientific and pedagogical employees are bound "to prepare pupils and students for intelligent life in the spirit of mutual understanding, peace, harmony between all peoples, ethnic, national religious groups"

II.2 Bilateral Agreements

II.2.1 General Overview

Since the two World Wars of the 20th century and the collapse of great multinational empires, state and "ethnic" borders, especially in the CEE, do not coincide. This creates a complex set of concerns in relations between certain states and relevant segments of populations, later on designated as the "triadic" relationship between "kin-States", "kin-minorities" and "home-States".

The first attempts to solve this kind of problems through concluding bilateral interstate treaties were undertaken after World War I (then under the aegis of the League of Nations); the most famous example of the success thus reached was the bilateral Sweden-Finland treaty in 1921 on the status of Aland Islands populated by people of predominantly Swedish ethnic origin. This province was provided with a large scope of autonomy in order to stop secessionist claims and ensure its further belonging to Finland. This situation, however, can not be regarded as a model for other cases because of its unique nature of having international guarantees that are kept intact up to date, despite the fact that the League of Nations itself no longer exists.

A bilateral approach to reaffirm the existing state borders and at the same time, to provide protection of national minorities, especially those residing in border areas of neighbouring countries, was resumed after World War II; the best known example is the treaty between Austria and Italy concerning the arrangements for South Tyrol. The end of the Cold War, the collapse of the communist regimes in the CEE and reunification of Germany gave new impetus to similar concerns, pertaining this time to the CEE sub-region. Regaining their full authority – including that in foreign policies, the CEE states have aimed at providing effective protection to their kin-minorities in neighbouring countries. In three of the four countries – participants of the given project – relevant provisions were enshrined in their new or revised Constitutions.

Thus, according to Article 6 of the Hungarian Constitution (1989),

"The Republic of Hungary bears a sense of responsibility for the fate of Hungarians living outside its borders and shall promote and foster their relations with Hungary";

whereas, Article 7 of the Romanian Constitution (1991) stipulates that

"The State shall support the strengthening of links with Romanians living abroad and shall act accordingly for the preservation, development and expression of their ethnic, cultural, linguistic, and religious identity under observance of the legislation of the State of which they are citizens."

Similarly, Article. 12 of the Ukrainian Constitution (1996) reads that *"Ukraine provides for the satisfaction of national and cultural, and linguistic needs of Ukrainians residing beyond the borders of the State."*

These constitutional provisions have been subsequently supplemented with national legislative acts, reflecting each country's stance and intensity of pursuing effective protection of their co-ethnics abroad.

In general, kin-states' concerns about developing special sets of measures in order to support their kin-minorities, if expressed through the bilateral treaties as the main instruments to achieve this goal, have been considered as quite legitimate. Moreover, since it is now common knowledge that stability and peace cannot be achieved without satisfactorily protecting national minorities, this instrument is often seen as a promising tool to improve interethnic relations and thus alleviate situations when interethnic or ethno-political conflict threatens to arise. Since in transition countries and especially in newly emerged democracies, state authorities are sometimes too weak and not so sure of themselves as to consciously and voluntarily provide minorities with their share in decision-making, majority-minority tensions under such conditions tend to escalate and may also have deteriorating effects on the relations between kin-states and home-states. Therefore, the potential of bilateral treaties to reduce such tensions is essential, especially if the specific characteristics and needs of each national minority, as well as their peculiar historical, political and social context, are to be taken into consideration.

Thus, practically all of the "basic" political bilateral treaties on friendly/good neighbourly relations contain provisions on the protection of the respective minorities. Moreover, throughout the 1990s, the legislation developed by both the EU and the CoE encourage member states to channel the issues of kin-minority protection through signing bilateral or multilateral agreements. For example, a French initiative on the Pact on Stability in Europe (the so-called "Balladur Plan") was launched by the EU in 1993. Adopted in 1995, the Pact was signed by 52 member states of the OSCE; it was initially concentrated on the six CEE countries, including Hungary and Romania, and the three Baltic States, with the prospect of accession to the European Union as an incentive.¹¹⁰

The states – parties to the Pact – were expected to intensify their good-neighbourly relations in all aspects, and to ensure this intensification by the effective implementation of the principles of sovereign equality, respect of the rights inherent in sovereignty, refraining from the threat or use of force, inviolability of frontiers, peaceful settlement of disputes, non-intervention in internal affairs, respect for human rights, including the rights of persons belonging to national minorities, and fundamental freedoms, including freedom of thought, conscience, religion or belief, equal rights and self-determination of peoples, cooperation amongst States and fulfilment in good faith of obligations under international law.

Regrettably, the exact focus of this European Council's initiative on the accession countries thus emphasised the demarcation line to be drawn between the future United Europe and those former Soviet republics that were, at the time, considered to be a zone of exclusively Russian interests and influence.

The Framework Convention for Protection of National Minorities (adopted by the Council of Europe in 1995) in its Article 18 paragraph 1 also contains the direct reference to bilateral

¹¹⁰ The Stability Pact for South Eastern Europe, based on a proposal by French Prime minister Edouard Balladur, was adopted at the conference held in Paris on 20 – 21 March 1995. It consists of a Declaration and a list of agreements and arrangements concluded between the EU member states and the nine candidates, as well as treaties signed by these countries with other states. Most of the bilateral treaties concluded both before and after 1995 are incorporated into it, therefore, its system of borders and minority rights guarantees is considered to refer to all of them to the same extent. (For more details, see *Bilateral Agreements in Central and Eastern Europe: A New Inter-State Framework for Minority Protection?* by Kinga Gbl, ECMI Working Paper # 4, May 1999, and *Protection of National Minorities through Bilateral Agreements in South-Eastern Europe* by Emma Lanschner and Roberta Medda, Draft report prepared by the European Academy of Bozen/Bolzano, May 2001.

and multilateral treaties which States “endeavour to conclude, where necessary... in order to ensure the protection of persons belonging to the national minorities concerned.” The same message is to be found in the Stability Pact for South Eastern Europe (1999), of which the Republic of Moldova – but not Ukraine – has become a member in 2001.¹¹¹

The international documents concerning minorities and most often referred to by bilateral agreements are the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992), the CSCE Concluding Document on of the Copenhagen Meeting on the Conference on Human Dimension (1990), Article 27 of the International Covenant on Civil and Political Rights (1966), the PACE Recommendation 1201 (1993) on an additional protocol on the rights of national minorities to the European Convention on Human Rights, and the Council of Europe Framework Convention on the Protection of National Minorities (1995).

A relatively smooth course of pursuing effective protection of kin-minorities mostly by means of concluding bilateral agreements between the state parties concerned has been interrupted by the adoption on 19 June 2001 of the so-called Hungarian Status Law. This move has reverberated in a number of neighbouring countries and invoked particularly sharp negative responses in Slovakia and Romania. Requested first by the Romanian Prime Minister and then by the Hungarian Minister of Foreign Affairs, the European Commission “Democracy Through Law” (Venice Commission) undertook a comprehensive research on the compatibility of the “Act on Hungarians living in neighbouring countries” with European standards, and the norms and principles of contemporary public international law, including a comparative study of the recent tendencies in European legislation concerning the preferential treatment of persons belonging to national minorities and living outside the borders of their country of citizenship. The completion of this study has made this document a main reference point with regard to interpretation and implementation of state policies dealing with their co-ethnics – citizens of other states. One of the main conclusions provided by the Venice Commission in this respect is that “Responsibility for minority protection lies primarily with the home-States” and that respect for the existing framework of minority protection must be held as a priority. Moreover, the effectiveness of multilateral and bilateral treaties that have been stipulated under the umbrella of European initiatives, should by no means be diminished or undermined (presumably, by any unilateral move).¹¹²

Taking into account the strong pressure from other European institutions that forced the Hungarian government to amend the Status Law to the extent satisfying its most ardent opponents, it follows that such an instrument as mutual obligations, to be observed through implementation of signed bilateral treaties, would remain the main and most potent tool for ensuring minority protection in cases relevant to kin-minorities, having their own kin-states while residing permanently in the respective home-states of which they are citizens.

Among the attempts to ensure broader, multilateral cooperation, trilateral agreements between the Republic of Moldova, Romania and Ukraine on establishing three Euro-regions (signed in 1997, 1998, and 2002, respectively) – although not yet especially successful – deserve notice. The underlying weakness of the instruments for minority protection mentioned above is the fact that during the preliminary discussions and eventual conclusions of the treaties, minority representatives were usually not invited to participate, being thus left outside of the decision making processes of their immediate concern. Besides, there is a

¹¹¹ For more information, see <http://www.stabilitypact.org>.

¹¹² Report on the Preferential Treatment of National Minorities by their Kin-State adopted by the Venice Commission at its 48th Plenary Meeting, Venice, 19 – 20 October 2001.

serious restriction of providing effective regime of minority protection through bilateral treaties, because the latter addresses, as a rule, only those minorities which fall under a paradigm of kin-state – kin-minority – home-state, thus creating less favourable situations for minorities not embraced by such treaties; that may lead to new dividing lines and increased interethnic tensions. This limitation becomes crucial in cases of ethnic minorities having no kin-states at all (like the pan-European Roma minority), or representing small nations without their own statehood (the cases of the Crimean Tatars in Ukraine and the Gaguzians in the Republic of Moldova). Being completely devoid of such a potentially strong instrument of minority rights protection as bilateral interstate treaties, these particular minorities should be compensated by closer attention on the side of both national governments and the international community.

Regarding the concrete treaties concluded between the countries – participants of the quadrilateral project – it could be said that in general, they followed the main principles and rules described above.

II.2.2 Bilateral Treaties between the Countries – Participants of the Project

The earliest of these treaties – that between the Republic of Hungary and Ukraine – named the *Treaty on the Foundations of Good Neighbourly Relations and Cooperation*, was signed on 6 December 1991, just five days after Ukraine's referendum on independence. It was ratified by the Verkhovna Rada (Parliament) of Ukraine on 1 July 1992 (Decree N 2527-12), much later by the Hungarian Parliament (on 23 May 1995, Act 45 of 1995), and entered into force on 10 June 1995. It is interesting to note that this particular treaty has been based on the earlier joint “*Declaration on the Principles of Cooperation on the Question of National Minorities*” signed by the Republic of Hungary and the then Ukrainian Soviet Socialist Republic on 31 May 1991, i.e., at the time of the Soviet Union not yet demised. This unique experience underscores a special significance attached by Hungary to the issue of Hungarian minorities in neighbouring countries, and Ukraine's eagerness to establish the most favourable minority regime in order to support and develop good neighbourly relations with the CEE countries as soon as possible.

Indeed, soon after the first free and fair elections of 1990, the Parliamentary Resolution 46/1990 that passed on 24 May called upon the government of Hungary to initiate negotiations with the neighbouring countries in order to conclude regional and bilateral agreements in the domain of minority protection. The Antall-led government had then succeeded in signing such a basic treaty only with Ukraine. One of the main reasons for that could be that after becoming an independent state, Ukraine undertook serious efforts towards strengthening its international position and developing good relations with most of its neighbours. In line with these political ambitions, endeavours to consolidate internal political situation by developing a favourable minority policy could be thus demonstrated by the Declaration on the Rights of Nationalities of Ukraine adopted in 1991, as well as by the Law on the National Minorities of Ukraine (1992), and last but not least by the bilateral 1991 document referred to above.

Article 17 of the basic treaty, dealing directly with minority issues, in contrast to analogous agreements concluded later on, is not elaborated in detail and refers only to the Paris Charter for New Europe and “other respective CSCE documents”. It is quite understandable, taking into consideration that most of the international instruments for minority protection were simply not yet developed at the time of the Ukrainian-Hungarian treaty having been concluded. It is remarkable, however, that the treaty relies upon the previous Declaration that addressed the minority rights in many detail (it contains 19 separate points and additional Protocol defining the composition of a Joint Committee, also the regulations concerning its

convocation and functioning). The bilateral treaty reaffirms the contracting parties' conviction that friendly relations between the both nations, as well as peace, justice, stability and democracy require mutual protection of ethnic, cultural, linguistic and religious identity of national minorities, for which all necessary conditions shall be created. The contracting parties assumed obligation to make further steps towards the realisation of the points included in the May 1991 joint declaration between the Republic of Hungary and Ukraine on the principles of cooperation in guaranteeing minority rights, and the protocol attached. The Declaration, in line with the 1990 document of Copenhagen Conference of the CSCE and other international documents, acknowledges that minorities are a constituent part of the state and recognised both individual and collective rights for them – once again a very rare example of a political good will towards minorities. The listed rights include such fundamental minority rights as equality before the law, non-discrimination and the freedom to choose an identity, also the right to establish different kind of minority organisations and to participate in public life. In order to realise these goals, a joint Hungarian-Ukrainian committee has been founded which consisted of the representatives of both state authorities and the respective minorities themselves. Its first meeting took place in Budapest on 27 July 1992 and from that time on further meetings were convened regularly. The Joint Committee has set out proposals for the governments with regard to settling issues of great importance for the Ukrainian national minority living in Hungary and the Hungarian national minority living in the Ukraine. Its main areas of activities include full realisation of linguistic and educational rights.

That basic treaty proved to be rather important for the Ukrainian minority living in Hungary which had not been officially recognised earlier; for this particular community the bilateral agreement means so much because later on, it became an integral part of the 1993 minority law. The Ukrainian minority, estimated between 2 and 6 thousand people, did not have its own civil organisation at that time except for the common Ukrainian-Rusyn Cultural Association founded in 1991. The separate Cultural Association of Ukrainians of Hungary was established after the enactment of the minority law in 1993.

It is worth noting that the Hungarian-Ukrainian basic treaty had an impact on Hungarian politics as well. For the radical right-wing elements of the ruling by that time governmental party, the Hungarian Democratic Forum (HDF or MDF in Hungarian), the agreement signified that the Hungarian government gave up a possible territorial demand against Ukraine, thus contributing to the HDF's decision to withdraw from the ruling party. This division could be demonstrated by the passing of the concerning Parliamentary resolution¹¹³ in May 1993 when the most votes against the treaty 25 in (total) came from the HDF while 10 representatives abstained.

In sum, it can be noted that despite the incidents of occasional opposition to the agreement (and to general accord in bilateral relations) on the side of radical nationalist politicians on both sides of the border, this earliest bilateral treaty concluded between Hungary and Ukraine is largely considered by the expert community to be an excellent move that had a significant positive impact on further developments in Central and Eastern Europe. Also, the issue of kin-minorities in both countries is usually assessed as “creating no major problems” in

¹¹³ The treaty was first approved by the 31/1993 (21st May) Parliamentary Resolution.. However, since according to the Hungarian Constitution international agreements must be passed by separate laws, the Hungarian-Ukrainian basic treaty was later voted once again on 23 May 1995; the latter date is thereby regarded as the date of official ratification. It was followed by the exchange of the ratification documents and entering into force on 10 June 1995.

contrast to similar issues seriously complicating Hungary's relations with its other neighbours – in particular, Slovakia and Romania.¹¹⁴

The next (chronologically) bilateral treaty concluded between the countries – participants of the project – was that between Ukraine and Moldova. The *Treaty on Good Neighbourly Relations, Friendship and Cooperation between Ukraine and the Republic of Moldova* was signed on 23 October 1992; it was ratified by the Verkhovna Rada (Parliament) of Ukraine on 1 November 1996 (Law N 459/96-BP). According to Article 26 of the Treaty, it had to be enacted on the day that respective ratification documents were exchanged; this indeed occurred in the city of Odesa on 5 January 1997.

Minority rights are directly addressed by Articles 7 and 8 of this treaty. According to them;

- persons belonging to national minorities shall have the right, individually or in community with other members of their group, to express, maintain and develop their ethnic, cultural, linguistic or religious identity; the identity of the respective minorities can be developed through “providing favourable conditions for... radio and television programmes in the mother tongue”;
- shall have the right for being taught the minority language or for receiving instructions in this language;
- shall have the right to disseminate and receive information in minority language, have access to public media and their own media;
- This particular treaty contains also such a provision as “the right to be safe from any attempts of assimilation against their will” (Article 7/2).

The treaty does not mention directly the collective rights of minorities, using instead such wording as “... the Contracting Parties... ensure that persons, belonging to national minorities, enjoy their rights both individually and in community with other members of the group” (Article 7). Many points of the treaty are formulated in rather general and vague form, including reference to the “UN and CSCE documents”. More concrete issues concerning minorities shall be dealt with through concluding of additional separate agreements “in conformity with national legislations and generally accepted norms of international law” (Article 9). In contrast to most other bilateral treaties, no specialised intergovernmental monitoring bodies are foreseen; in Article 12 it is simply said that “Summits of the Contracting Sides shall be held, as a rule, once per year, also whenever it might be necessary and expedient.”

Following the signing of the bilateral treaty, a number of Moldovan students of Ukrainian ethnic origin were enabled to study in Ukraine, and vice versa. In general, since this document does not refer to the particular provisions of international instruments already available, thus making them legally binding, this treaty can be regarded as belonging to a weaker type of bilateral agreement.

¹¹⁴ See, for example, *Hungary's 'Near Abroad': Minorities Policy and Bilateral Treaties* by Hans Binnendijk and Jeffrey Simon, available at http://www.ndu.edu/inss/strforum/SF_93/forum93.html; *Hungarian-Ukrainian Cooperation on the Issue of National Minorities: International Experience* by G. Varga, 2000 (translated into Ukrainian by M. Tovt), available at http://www.niurr.gov.ua/ukr/publishing/panorama1~2_2000/20_uu.htm; *Fuzzing citizenship, nationalising political space: A framework for interpreting the Hungarian 'status law' as a new form of kin-state policy in Central and Eastern Europe* by Brigid Fowler, Working Paper 40/02, January 2002.

The next bilateral agreement was the *Treaty between the Republic of Hungary and Romania on Understanding, Cooperation and Good Neighbourly Relations*. It was signed on 16 September 1996, ratified by Hungary on 27 May 1997, and came into force on 13 June 1997.

By that time, the Hungarian socialist-liberal coalitional government that entered in 1994 and was led by the former Minister of Foreign Affairs, Gyula Horn, professed a much more pragmatic approach in the field of dealing with minority issues. Among the threefold priorities of the Hungarian foreign policy developed after the change of system, namely, Euro-Atlantic integration, regional cooperation and protection and representation of Hungarian minority interests on the international level, this government put the first goal before the others on the basis of *primus inter pares*. That was to be carried out partially due to the clear messages sent by such organisations as NATO and the EU, which declared determinative expectations of concluding bilateral agreements as basic for interstate relations in order to strengthen regional stability.

As was also the case with the Hungary – Slovakia treaty concluded in 1995, negotiations on the bilateral agreement between Hungary and Romania faced substantial difficulties, especially with regard to the interpretation of the Recommendation 1201 (1993) referred to, together with the UN Declaration of 1992, the Copenhagen Document of 1990 and the CoE Framework Convention for the Protection of National Minorities (1995), by both treaties. A particular obstacle has been presented by the Article 11 of the Recommendation 1201, stipulating that “in the regions where they are in a majority, the persons belonging to a national minority shall have the right to have at their disposal appropriate local or autonomous authorities or to have a special status, matching the specific historical and territorial situation and in accordance with the domestic legislation of the state”; there is also mentioning of specific minority arrangements implicitly providing for different types of autonomy, including territorial autonomy. It is quite understandable that home-states with small respective minorities would be eager to include this clause into the bilateral treaties with countries possessing quite sizable kin-minorities, as this is indeed the case of the Hungarian-Romanian treaty (as well as the Hungarian-Slovak one). As a result, the Romanian government supplemented the treaty with the interpretational footnote, stating that “the contracting Parties agree that Recommendation 1201 does not refer to collective rights nor does it impose upon them the obligation to grant to the concerned persons any right to a special status of territorial autonomy based on ethnic criteria.” The Hungarian government, then eager to not complicate the prospect of forthcoming accession to NATO, accepted the step. Additional problems arose during the debates on an implementation mechanism, including the very name of a joint intergovernmental body, its composition and authority. The Hungarian party proposed the name “intergovernmental joint commission”, whereas the Romanian side insisted on an “expert working group”. A compromise was reached by adopting in Article 15(10) the name “intergovernmental expert commission” without any reference to either its composition or competency.

In Hungarian politics this basic treaty also raised a huge debate among parliamentary parties but this was not about the Romanian minority living in Hungary but rather about the status and rights of the Hungarian minority in Romania. (For the small Romanian community living in Hungary the treaty was also important but it is worth mentioning that the national legislative acts provide for much more extended individual and collective rights, such as the right to create cultural autonomy embodied by minority self-governments.)

Hungarian experts – participants of the project – believe that it became quite obvious that many of the bilateral agreements have had to be concluded much more for the sake of certain countries, international organisations and regional stability than in the interest of minorities targeted by the texts. This view also relates to the Hungarian-Romanian basic treaty because

the bilateral regulations were actually not able to meet the political-legal demands of the Hungarian minority living in Romania. However, a number of prominent international political analysts indicate that political changes, favourable to democratisation in Romania since 1996, have contributed to the realisation of the minority provisions enshrined in the Hungarian-Romanian Treaty (for example, the Democratic Alliance of Hungarians in Romania has been a part of the Romanian governmental coalition since 1996), and that although the main claims of the Hungarian minority in Romania have not been satisfied yet, the relations between the two countries have greatly improved, and the bilateral treaty played an important role in this positive development.¹¹⁵

Concerning the bilateral *Treaty on Good-Neighbourly Relations and Cooperation between Ukraine and Romania*, it was signed on 2 June 1997, ratified by the parliament of Romania on 14 July 1997, by the Verkhovna Rada (Parliament) of Ukraine on 17 July 1997 (Law # 474/97), and went into effect in October of the same year.

Its clauses relating to mutual minority protection could be regarded as rather extensive and covering the respective sphere in many details. In particular, Article 13 dealing with minority issues consists of 13 separate paragraphs, covering many aspects of contracting parties' obligations to ensure the advanced regime of minority rights protection.

Article 13(1) contains the most exhaustive list of international documents to be relied upon, namely, the CoE Framework Convention (1995), the CSCE Copenhagen Document (1990), the UN Declaration (1992), and the PACE Recommendation 1201 (1993). In contrast to other treaties, restrictive interpretation of the latter is included into the body text of the treaty, stating that this Recommendation does not relate to collective rights and does not oblige the Contracting Parties to provide the right for a special status of territorial autonomy based on ethnic criteria (Art. 13(1)).

Apart from already traditional references to minority rights related to preserving voluntarily their own identity, cultural, educational rights, that of establishing associations and maintaining free contacts between themselves and with other NGOs across the border and internationally, this treaty reflects the attempt to define more precisely who are the members of the respective minorities targeted by the document. Hereby, Article 13(2) says that the Ukrainian minority in Romania includes the citizens of Romania who, irrespectively of places of their settlement, have freely chosen to belong to this minority on the basis of their ethnic origin, language, culture or religion; this clause is followed by the "symmetrical" definition of the Romanian minority in Ukraine. This particular point is of special importance in view of the constantly re-surfacing accusations that Ukraine pursues the "Soviet" or even "Stalinist" policy of dividing the Romanian-speaking minority into Moldovans and Romanians, instead of summing up 258,600 thousands of Moldovans and 151,100 Romanians (according to the 2001 census), thus making them a single group – the second by size after Russians.¹¹⁶

Article 13(3) can be interpreted as containing the implicit acceptance of special measures (like affirmative or positive action) to be undertaken in order to ensure "full and genuine equality of persons belonging to national minorities and those of the majority, taking into consideration the actual situation of persons belonging to national minorities." One more

¹¹⁵ See, for example, Michael Shafir, *A Possible Light at the End of the Tunnel*, Transition, Vol. 2, No 19, 20, September 1996; Kinga Gal, *Bilateral Agreements in Central and Eastern Europe: A New Inter-State Framework for Minority Protection?* ECMI Working Paper # 4, May 1999.

¹¹⁶ After the treaty had been signed, Romanian post-communists, as well as radical nationalists, continued to insist that Ukraine has in reality 460,000 Romanians, not 135,000 as followed from the data of the 1989 census.

interesting point is to be found in Article 13(8), stating that the Contracting Parties shall refrain from any steps aimed at changes in proportional composition of population in areas where minorities are residing.¹¹⁷ Article 13(10) of the Treaty underlines that minorities have not only rights but also obligations, in particular, to keep loyalty to their country of citizenship, also to respect the rights of other persons belonging to both the majority population and to other groups of national minorities. Last but not least, this particular treaty is supplemented by the annex establishing a two-year period of negotiations for settling the most sensitive issues regarding the common border and the delimitation of the continental shelf, also the matter of the two countries' exclusive economic zones in the Black Sea. In particular, it has been foreseen that in case the two sides do not reach agreement over the defined period, any of them may appeal to the UN International Court of Justice, under condition of entering into force of the Agreement on Border Regime between Ukraine and Romania (Point "h" of the Annex, 2 June 1997).

The course of the implementation of the Ukrainian-Romanian treaty, and the failures to solve disputable issues could hardly be comprehensible without taking into consideration the general political context determining the dynamics of the bilateral interstate relations. The signing of the treaty signified an important step in Ukraine-Romania relationship that had been rather cool since Ukraine's independence in 1991. The main disputed issues involved the common border, the exploitation of resources in the Black Sea, and the treatment of the respective minorities. The signing of the treaty occurred during the preparations for Romania's joining NATO, for which settling the border problems was a necessary prerequisite; actually, it had happened just one month before the Madrid NATO Summit. It is widely acknowledged that concluding the treaty with Ukraine had been made possible due to the efforts of the then centrist-right government and reformist President Emile Constantinescu. This move was opposed and harshly criticized at the time by both the former communists led by Ion Iliescu and extreme nationalists, such as the Greater Romania Party. The treaty passed narrowly though the Romanian Senate by a vote of 65 to 50, with three abstentions, and in the lower Chamber of Deputies by a vote of 165 to 92. Three opposition parties – leftist and radically nationalist – boycotted the signing ceremony (including Iliescu's party). The Romanian Foreign Ministry complained in 1997 that post-communists and nationalists who opposed the border treaty with Ukraine were "circles alien to Romania's interests that wanted the country to stay outside European and Euro-Atlantic structures."¹¹⁸ After the victory by the left in the 2000 election, the new Social Democratic government led by Adrian Nastase resumed criticism of the treaty, and Ukrainian-Romanian bilateral relations stagnated notwithstanding the mutual obligations to step them up as enshrined in the treaty. Nastase himself has repeated that the treaty was hastily prepared; a number of Romanian politicians and officials have accused Ukraine of illegally exploiting oil resources around Serpent Island. Following these criticisms, negotiations on the maritime border and the delimitation of the continental shelf, held according to annexes of the bilateral treaty, have been blocked. Moreover, numerous rounds of negotiations did not result in any substantial progress,¹¹⁹ as was admitted during the Ukrainian Prime Minister Anatoliy

¹¹⁷ Such measures, aimed at "diluting" and reducing minority populations in certain districts, may have a negative impact on minorities' representation in the elective bodies; they are indeed known in administrative practices of some of the European countries – even in entrenched democracies like Finland, where the Swedish minority complained of arbitrary changes to the boundaries within the constituencies populated by ethnic Swedes.

¹¹⁸ For more details, see *Romania: Ukrainian PM Makes Rare Visit To Bucharest* by Eugen Tomiuc, RFE/RL, 30 January 2002; and *ROMANIA ATTEMPTS TO ALLEVIATE BORDER PROBLEMS WITH UKRAINE* by Taras Kuzio, RFE/RL NEWSLINE, Vol. 6, No. 181, Part II, 25 September 2002, END NOTE.

¹¹⁹ The Romanian-Ukrainian border on Danube river is located not along the middle line of the river – in accordance with usual international norms – but on the Romanian bank. This configuration was determined by a 1948 protocol between Romania and Soviet Union and was later reconfirmed by a 1961 Soviet-Romanian

Kinakh's visit to Bucharest on 30 January 2002 – the first such visit in ten years. However, during this visit his Romanian counterpart Adrian Nastase pointed out that the 1997 bilateral treaty between Romania and Ukraine was the first guarantee against any territorial claims between the two countries. Moreover, "Regarding ethnic minorities, beyond the documents adopted in Romania or Ukraine, the approach depends to a great extent on the degree of trust between the two countries. The 1997 treaty represents a fundamental political position which is a starting point in eliminating any suspicions that the minorities issue could be used as a reason to discuss territorial claims." Kinakh said Ukraine was never the scene of ethnic conflicts, although it is home to more than a hundred ethnic groups. Kinakh also said that by boosting cross-border economic cooperation, ethnic minorities on both sides of the border will gain.¹²⁰

This meeting, as well as Romanian President Ion Iliescu's visit to Ukraine on 17-19 September 2002, meant once again the attempt to settle bilateral tensions that was obviously conditioned, once again, by Romania's Euro-Atlantic aspirations and this time, preceded the NATO Summit in Prague in November 2002. Nevertheless, mutual tensions persisted, including those regarding the treatment of national minorities, about which the Ukrainian side sometimes expressed its dissatisfaction, referring, in particular, to the situation of the Ukrainian minority in Romania with regard to receiving education in the mother tongue.¹²¹ Besides, after repeatedly failed rounds of negotiations and Romania's eventual success in joining NATO, on 16 September 2004 Romania appealed to the UN International Court in order to solve the disputed issue of its maritime border with Ukraine and exclusive economic zones. This step did not contribute to improving bilateral relations, and the new presidents of both countries (elected almost simultaneously by the end of 2004), although sincerely dedicated to upgrading the relationship between Ukraine and Romania in line with the spirit and letter of the bilateral treaty, now experience essential difficulties in pursuing the course that is still far from being fully realised. Certain invigoration of mutual relations is, however, evident, and one of them is the re-activated Joint Intergovernmental Commission for monitoring the implementation of mutual protection of national minorities, ensuing from the treaty's obligations. The first stage of this monitoring is already completed; it is worth mentioning that these activities are going on with the participation of international authorities, in particular, representatives of the OSCE High Commissioner on National Minorities and the Council of Europe.

Finishing this section of our research, it should be noted that at this or that stage, bilateral treaties have been concluded by all of the four countries – participants of the project – with their neighbours, although with one major exception, notably, concerning the still lacking treaty between the Republic of Moldova and Romania. In this respect, it might be recalled that negotiations between Moldova and Romania on political and border treaties started as early as in 1992. In 1999, Mr. Dumitru Ciausiu, the then Ambassador of Romania to France, in his Opening Address to the international seminar "EU Enlargement – First and Second Wave", underscored the importance of concluding political bilateral treaties between the

treaty. The same treaty also determined the sea boundary between Romania and the then-USSR. Under the 1997 treaty with the Ukraine, Romania renounced its claim for the Serpent Island but wanted to negotiate modification of the Danube border, as well as the new delimitation of the continental shelf around the island, where gas and oil deposits have been found in the middle 90s.. But Ukrainian government insisted that since Ukraine is the legal successor of the USSR, its borders with Romania, which existed at the moment of the Soviet Union's demise in 1991, should be kept intact.

¹²⁰ Citations taken from: *Romania: Ukrainian PM Makes Rare Visit To Bucharest* by Eugen Tomiuc, RFE/RL, 30 January 2002

¹²¹ See, for example, PARLIAMENTARY SPEAKER COMPLAINS ABOUT ROMANIAN TREATMENT OF UKRAINIAN MINORITY, RFE/RL NEWSLINE, Vol. 7, No. 216, Part II, 14 November 2003.

neighbouring countries, designed particularly to solve peacefully and in accordance with international law such fundamental issues as inviolability of state borders and effective protection of national minorities.¹²² Moreover, in that address it was clearly stated that “...My country's relations with the Republic of Moldova are warm and cordial, Romania being the first country to officially recognize this new state when its independence was proclaimed on August 27, 1991. *We are determined to finalize negotiations on the Political Treaty with the Republic of Moldova by the end of this year*“ (i.e., the year 1999). Actually, both treaties were prepared for signing in 2000, but this still did not happen.

Such a prolonged delay in concluding the basic political treaty raises some concerns about the future of the Republic of Moldova as a sovereign independent state among many politicians and public figures, including those in Ukraine, the latter neighbouring both Moldova and Romania. The quickly growing number of Moldovans applying for Romanian citizenship, the increased attractiveness of acquiring such citizenship in view of Romania's accomplished entry into the EU, and rather uncertain prospects for Moldova's quick re-unification with its breakaway easternmost region – the self-proclaimed Transnistrian Moldovan Republic – put additional weight to these concerns. Although in both Moldova and Romania the issue of the absence of a basic political treaty has often been hushed up, when arising, especially at the highest level, it has a rather negative impact on bilateral interstate relations and mutual perception of certain strata of the population in both countries. This is exactly what has happened recently, on late February – early March 2007. Moldova's President Voronin addressed this sensitive problem, mentioning that the Republic of Moldova has been asking for the signing of the basic treaty and border agreement with Romania – yet unsuccessfully, and expressed dissatisfaction with the “non-recognition of the Moldovan minority in Romania.”¹²³ Voronin's statements came a day after Moldovan officials welcomed a delegation of the Community of Moldovans in Romania, an organization that claims „to defend fundamental rights and freedoms of the Romanian citizens with ethnic Moldovan origin”.¹²⁴ In the follow-up statement by the Moldovan government it asked, in particular, its European and international partners to „exert their influence and bring Romania's policy onto a normal track of good-neighbourly relations [with Moldova] in a European spirit.” Responding to this appeal, EU spokesman Friso Roscam Abbing said that “The power of granting nationality to another person or the deliverance of passports is very clearly a competence which falls within the remits of member states of the EU. So this is something which is, in this particular case to be decided upon by the sovereign Romanian government.” He also added that new legislation is being prepared by Romania with EU help to more clearly define the process of granting Romanian nationality, and cautioned that until such legislation is completed, it would be premature to estimate the final impact of the current number of Moldovan applications.¹²⁵

The situation with Romanian-Moldovan interstate relations was further aggravated when Andrei Stratan, Moldova's minister of foreign affairs and European integration, announced

¹²² STABILIZING THE BALKANS THROUGH EU ENLARGEMENT: A ROMANIAN VIEW.

Opening Address by His Excellency Mr. Dumitru Ciausiu in Cicero Foundation Great Debate seminar "EU Enlargement - First and Second Wave", PARIS, 14 - 15 October 1999, available at:

http://www.cicerofoundation.org/lectures/format_print.htm?article=p4ciau&title=Lecture%20by%20His%20Excellency%20Dumitru%20Ciausiu.

¹²³ Vladimir Voronin: *Moldova's history is a part of the common European legacy*. Interview given by Moldovan President Vladimir Voronin to the state news agency MOLDPRES. Feb. 24, 2007, [1588], <http://moldpres.md/default.asp?Lang=en&ID=60925>.

¹²⁴ MOLDOVA PRESIDENT ACCUSES BUCHAREST OF INTOLERANCE TOWARDS “ETHNIC MINORITY OF MOLDOVANS” IN ROMANIA. Mediafax (Romania), Feb. 24, 2007.

¹²⁵ *Moldova: No Signs of Feared Mass Migration to EU* by Eugen Tomiuc, RFE/RL, March 14, 2007, <http://www.rferl.org/featuresarticle/2007/3/981C2D5B-44E7-49EE-9B99-693D80177116.html>

on March 14 that the previous decision of the Moldovan government to allow the opening of two additional Romanian consulates in Balti and Cahul is being cancelled. What did raise EU concerns was unilateral intention of Romania to open in Chisinau the centre dealing with application and issuing visas to EU countries. Before this, in order to avoid a migratory flow of Moldovan holders of Romanian citizenship to the EU, Brussels offered Moldova a visa-facilitation agreement, aimed also at consolidating Moldova's statehood. The EU has decided to set up a joint visa application and issuing centre in Chisinau for entry and transit visas to a number of EU member countries. Hungary was designated to administer the Centre via the Hungarian Embassy, with participation of Austria, Slovenia, Denmark, Estonia, and Latvia. But the Romanian government recently sought to reverse or amend the decision the EU had already made. These and related developments were widely covered by international media, providing different kind of expert opinion. For example, prominent political analyst Vladimir Socor wrote that "At this stage, however, irredentist rhetoric from Bucharest raises the possibility of partitioning Moldova along the Nistru River and consolidating Russia's hold on Transnistria as a second Kaliningrad, instead of supporting EU efforts to loosen that hold." Apart from this unusually harsh statement, the same source noted that the dispute has escalated beyond issues of history and national identity, because "Chisinau believes that the issue now revolves around Moldova's continuation as a state."¹²⁶ At the same time, it has been suggested that the timing of these statements suggests that rather hostile anti-Romanian rhetoric of Chisinau might be a part of an effort to improve relations with Moscow and the breakaway region of Transnistria.¹²⁷ Whatever the reasons behind the scene, it can be noted that long-lasting uncertainty with basic political and border treaties between Romania and Moldova and their periodically emerging discontent does not contribute to region's stability and political consolidation.

It should also be added that long-lasting tensions and contentions, revolving around the problems of identity, citizenship and bilateral and border treaties, aggravate rather uneasy relations between the Moldovan and Romanian communities of Ukraine. These complications tend to deteriorate following ever-increasing politicisation of these issues that might be more reasonable to approach proceeding from the both individual and group right for self-identification.

II.2.3 Multilateral Agreements and International Legislation

Effective protection of national/ethnic minorities and their cultures requires further development of complex legal mechanisms and the establishment of delicate and balanced ethnopolitical policies. 'Minority rights' is an international legal term which refers to the rights of minorities as groups, but also to the rights of individuals within them. Minority rights derive from basic international law on human rights, as well as specific treaties and declarations on minority rights; they are enshrined also in national (constitutional) law. In the era of the League of Nations international sources prevailed, while the beginning of the United Nations marked a re-delegation of the issue of minorities to national legal sources.

¹²⁶ MOLDOVA TURNS DOWN MASS CONFERRAL OF ROMANIAN CITIZENSHIP by Vladimir Socor, Eurasia Daily Monitor, Vol. 4, Issue 48, March 9, 2007. See also OFFICIAL CHISINAU SEEKS RECOGNITION OF MOLDOVAN ETHNICITY AND MINORITY IN ROMANIA by Vladimir Socor, Eurasia Daily Monitor, Volume 4, Issue 40, February 27, 2007.

¹²⁷ *Moldova: What's Behind Harsh Criticism Of Romania?* By Ryan Kennedy, RFE/RL, March 14, 2007, <http://www.rferl.org/featuresarticle/2007/03/5EAB769B-BC08-416B-9EEA-308336107AAA.html>.

However, at the end of the last century we witnessed an astonishingly fast resurrection of international activities in Europe, including those addressing the issue of minorities' rights. Both of the two important Council of Europe instruments (the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages) entered into force in 1998, and the OSCE's various contributions to the elaboration of a European standard fall within that period as well. Besides this process of internationalisation, Europe has undergone another specific dynamic: the EU enlargement process that brought a third player onto the scene of international minority policies – the European Union.¹²⁸

Whereas bilateral agreements, especially between minorities' kin-States and home-States, make it possible to take into direct consideration the specific characteristics and needs of the particular national minorities, and give rise to the specific commitments on certain sensitive issues often involving the two neighbouring states, multilateral agreements can function as a "motor" for the development of general standards of minority protection in a larger geographical area.

The new developments in the field of minority protection in terms of international law reflect that since 1991 it is recognised definitely that minority questions are a legitimate international concern that could no more be regarded as an exclusive internal affair of the respective state. This principle is enshrined in art.1 of the Framework Convention for the Protection of National Minorities. It should be highlighted that the increased world-wide and European attention to issues of minorities and their rights, reflected by the endeavours to address them through the lens of rule of law and development of international legal system of minorities' protection, is closely linked to the growing understanding that historic and ongoing violations of their rights, injustice experienced by minorities, as well as the lack of the effective mechanisms to identify and redress those injustices, are often the cause and the source of many violent conflicts. It follows, in particular, that a system of fair compensation for a community is needed, whether financial or, certainly in the case of land, the possible restitution of what has been lost.¹²⁹

The current situation with the international obligations concerning minority rights in the four countries is reflected in the table "Current State of Ratification of Fundamental International Agreements by the Respective States".

¹²⁸ Christoph Pan, Sibylle Pfeil. Achievements and limits of minority legislation in the CEI region, Meeting of the CEI Working Group on Minorities in Lendava / Lendava, 27-28 October 2004, See more at: http://www.ceinet.org/download/Lendava_Pan_Pfeil.pdf.

¹²⁹ See more in: *Minority Rights: The Key to Conflict Prevention* by Clive Baldwin, Chris Chapman and Zoë Gray. Minority Rights Group International 2007.

Current State of Ratification of Fundamental International Agreements by the Respective States													
#	Documents	Ukraine			Hungary			Romania			Moldova		
01	02	03			04			05			06		
		Signed	Ratified	Came into force	Signed	Ratified	Came into force	Signed	Ratified	Came into force	Signed	Ratified	Came into force
	Universal Declaration of Human Rights (UN, 10.12.1948)	10.12.48	X	10.12.48	10.12.48	X	10.12.48	10.12.48	X	10.12.48	28.07.90	X	28.07.90
	Convention on the Prevention and Punishment of the Crime of Genocide (UN, 09.12.1948)	16.12.49	22.07.54	15.02.55		07.01.52	11.05.55		02.11.50		10.09.91	26.01.93	26.04.93
	International Covenant on Economic, Social, and Cultural Rights (UN, 1966)	20.03.68	19.10.73	03.01.76	17.01.74	03.01.76	02.04.76	27.06.68	03.01.76	02.04.76	28.07.90	28.07.90	26.04.93
	International Covenant on Civil and Political Rights (UN, 1966)	16.12.66	19.10.73	23.10.76	17.01.74	23.03.76	22.04.76	27.06.68	23.03.76	22.04.76	28.07.90	28.07.90	26.04.93
	International Convention on the Elimination of All Forms of Racial Discrimination (UN, 21.12.1965)	07.03.66	21.01.69	07.04.69	04.05.67	04.01.69	27.04.69	15.09.70	15.10.70	15.10.70	10.09.91	25.02.93	25.02.93
	Declaration of Principles on Tolerance (UNESCO, 16.11.1995)	16.11.95	X	16.11.95	16.11.95	X	16.11.95	16.11.95	X	16.11.95	16.11.95	X	16.11.95
	Convention against Discrimination in Education (UNESCO, 14.12.1960)	14.12.60	19.12.62	19.03.63	14.12.60	16.01.64	21.05.64	14.12.60	09.07.64	09.10.64	X	17.03.93	17.06.93
	Conference on security And co-operation in Europe Final act (CSCE, 1975)	01.08.75	X	01.08.75	01.08.75	X	01.08.75	01.08.75	X	01.08.75	01.08.75	X	01.08.75

The Copenhagen Document of the CSCE Conference on the Human Dimension (CSCE, 29.06.90)	29.06.90	X	29.06.90	29.06.90	X	29.06.90	29.06.90	X	29.06.90	29.06.90	X	29.06.90
The Framework Convention for the Protection of National Minorities (Coe, 1995)	15.09.95	09.12.97	01.05.98	01.02.95	25.09.95	31.03.99	01.02.95	11.05.95	01.02.98	22.10.96	22.10.96	07.11.96
The European Charter for Regional or Minority Languages (CoE, 1996)	02.05.96	19.09.05	01.01.06	05.11.92	26.04.95	01.05.99	17.07.95	–	–	11.07.02	–	–
The European Charter of Local Self-Government (CoE, 15.10.1985)	06.11.96	15.07.97	01.01.98	06.04.92	21.03.94	01.07.94	04.10.94	28.01.98	01.05.98	02.05.96	02.10.97	01.02.98
The European Convention for the Protection of Human Rights and Fundamental Freedoms (CoE, 04.11.1950)	09.11.95	17.07.97	11.09.97	06.11.90	05.11.92	05.11.92	07.10.93	20.06.94	20.06.94	13.07.95	12.09.97	12.09.97
European Convention on Nationality (CoE, 1997)	01.07.03	20.09.06	01.04.07	06.11.97	21.11.01	01.03.02	06.11.97	20.01.05	01.05.05	03.11.98	30.11.99	01.03.00
Convention for the Protection of Human Rights and Fundamental Freedoms (CoE, 04.11.1950)	09.11.95	11.09.97	11.09.97	06.11.90	05.11.92	05.11.92	07.10.93	20.06.94	20.06.94	13.07.95	12.09.97	12.09.97
European Cultural Convention (CoE, 19.12.1954)	X	24.02.94	13.06.94	X	16.11.89	16.11.89	X	19.12.91	19.12.91	X	24.05.94	24.05.94
European Outline Convention on Transfrontier Co-	14.07.93	21.09.93	22.12.93	06.04.92	21.03.94	22.06.94	27.02.96	16.07.03	17.10.03	04.05.98	30.11.99	01.02.00

operation between Territorial Communities or Authorities (CoE, 21.05.1980)													
Protocol No. 2 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (CoE, 05.05.1998)	03.11.98	04.11.04	05.02.05	-	-	-	05.05.98	-	-	27.06.01	27.06.01	28.09.01	
Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (CoE, 09.11.1995)	01.07.03	04.11.04	05.02.05	-	-	-	05.05.98	-	-	27.06.01	27.06.01	28.09.01	
Rome Statute of the International Criminal Court (ICC, 01.07.2002)	20.01.00	-	-	15.01.99	30.11.01	30.11.01	07.07.99	11.04.02	11.04.02	08.09.00	-	-	
Freedom of Association and Protection of the Right to Organise Convention (ILO, 09.07.1948)	X	14.09.56	15.09.57	X	06.06.57	06.06.57	X	28.05.57	28.05.57	X	12.08.96	12.08.96	
Right to Organise and Collective Bargaining Convention (ILO, 01.07.1949)	X	14.09.56	14.09.56	X	06.06.57	06.06.57	X	26.11.58	26.11.58	X	12.08.96	12.08.96	

SOURCES for compiling the Table : United Nations <http://www.un.org>, <http://www.un.org/documents/>; ICC: Rome Statute of the International Criminal Court (Rome, 17 July 1998) <http://www.un.org/law/icc/statute/romefra.htm>; The Organization for Security and Co-Operation in Europe www.osce.org; Council of Europe: Complete list of the Council of Europe's treaties <http://conventions.coe.int/Treaty/Commun/ListeTraites.asp?CM=8&CL=ENG>; UNIVERSITY OF MINNESOTA, Human Rights Library, Ratification of International Human Rights Treaties, Edited and updated by Ilhan Isik (2004) <http://www1.umn.edu/humanrts/research/ratification-index.html>; Office of the United Nations High Commissioner for Human Rights, Status of Ratifications of the Principal International Human Rights Treaties <http://www.ohchr.org/english/law/>.

PART III

A Role of Civil Society

In the framework of democracy, the process of decision-making is as important as the substance of decisions made. Since good governance is not only of the people but also for the people, its processes should always be inclusive of those concerned, transparent for all to see and judge, and accountable to those affected. Only such processes will inspire and maintain public confidence. Inclusive processes may comprise consultation, polling, referenda, negotiation and even the specific consent of those directly affected.

Full opportunities for the equal enjoyment of the human rights of persons belonging to minorities entail their effective participation in decision-making processes, especially with regard to those decisions specially affecting them.

The connection made in the Lund Recommendations on the Effective Participation of National Minorities in Public Life between respect for human rights and the development of civil society reflects the call for an "effective political democracy" which, according to the Preamble of the European Convention on Human Rights, is intimately related to justice and peace in the world.¹³⁰

In relation specifically to national minorities, paragraph 33 of the Copenhagen Document commits OSCE participating States to take measures to "protect the ethnic, cultural, linguistic and religious identity of national minorities on their territory and create conditions for the promotion of that identity [...] after due consultations, including contacts with organisations or associations of such minorities". In Part VI, paragraph 26, of the Helsinki Document, OSCE participating States further committed themselves to "address national minority issues in a constructive manner, by peaceful means and through dialogue among all parties concerned on the basis of CSCE principles and commitments". In connection with "all parties concerned", paragraph 30 of the Copenhagen Document recognises "the important role of non-governmental organisations, including political parties, trade unions, human rights organisations and religious groups, in the promotion of tolerance, cultural diversity and the resolution of questions relating to national minorities."¹³¹

It should be also emphasised that the price to be paid for failing to respond positively to the needs of national minorities may be an escalation in social tension, an increase in the number of asylum seekers, reluctance to reinforce unity between the states of Europe and a climate of insecurity which would be detrimental to trade and investment.

Therefore OSCE and the Council of Europe do a lot for the sake of guaranteeing and protection of the minority rights. However, any pressure that the Council of Europe may apply on a government not willing to support the minorities will usually be stronger if complemented by national civil society initiatives and by means of domestic advocacy. Thus it is of vital importance to enhance the activities of the civil society within the European states as a tool able to provide existing national and international minority protection models with an added value.

Actors carrying out domestic advocacy, particularly if they come from and consult with minority communities, are good potential partners for governments and international actors to participate in decision-making processes that affect their communities.¹³² There is also a considerable role

¹³⁰ The Lund Recommendations on the Effective Participation of National Minorities in Public Life & Explanatory Note, Foundation on Inter-Ethnic Relations, September 1999.

¹³¹ Ibid.

¹³² See more: Magdalena Syposz. Framework Convention for the Protection of National Minorities. Opportunities for NGOs and Minorities, - London, - 2006. - 46 p.

for minority civil society, including NGOs, to contribute to deliberating, implementing and monitoring general laws, policies and practices, and those that are specifically aimed at improving minority protection.

Another point worth attention is the necessity to promote NGOs' joint efforts and common initiatives in the sphere of minority protection which can increase their influence on the national governments.

Besides that, although international advocacy is usually of little use unless it is combined with domestic advocacy, it should be noted that when domestic and international initiatives and projects complement each other, this can be very effective. Advocacy at all levels should be carried out with the participation of those whose lives it is trying to change. Participation is a right that is particularly important for minorities because they are often marginalised, economically and politically.

Some of the possible benefits of advocating at the international level include:

- States are *legally bound* by the treaties they have ratified and they are breaking international law if they do not respect or implement the treaties. There are many other commitments states make, such as declarations, that they are *politically bound* to implement. NGOs have the possibility of influencing the process of monitoring the treaties and other commitments.
- No one likes to be *embarrassed* in front of their peers. This includes states. If NGOs raise issues effectively at the international level, the states are likely to be embarrassed into taking concrete steps to improve a domestic situation, or at least to be seen to be taking steps to improve the situation.
- *Foreign pressure* can be effective, depending on the *leverage* the international actor has on the government. For example, in the context of accession negotiations to the EU, the Copenhagen criteria, which all candidate states have to meet, and which include the obligation to protect the rights of minorities, were used effectively by NGOs to press for change. The challenge is what to do once the leverage is gone (e.g. once a state accedes to the EU).¹³³

Taking into account all the above mentioned facts and concerns, the comparative analysis of the experience gained by Hungary, Moldova, Romania and Ukraine is indeed worth attention. Particularly, because Hungary and Romania have already passed the accession negotiations process having managed to develop legislation in accordance with the Copenhagen criteria,¹³⁴ and at present, civil societies of these countries are facing the challenges of “gone leverage”. Therefore, the experience of these states' civil societies is of vital importance for Moldova and Ukraine, who are still looking for the window of EU accession opportunity and need to learn the lessons.

On the other hand, although the situation of civil society in Moldova and Ukraine reflects some problems typical mostly for post-Soviet states, the awareness of the good practices emerged and developed within all the four countries, participating in the project, might provide certain guidelines and help in search of practical solutions for the existing problems. Moreover, we hope that the accomplished study would give the opportunity to understand better certain specifics and particularities of minority/majority relations and minorities' situation within the two states, belonging to the EU “new neighbourhood”.

¹³³ Ibid.

¹³⁴ Respect for human rights generally, and those of minorities in particular, are explicitly included in the Copenhagen criteria for accession, the requirements a candidate state must meet in order to become an EU member state.

III.1 Hungary

The political changes in Hungary in 1989-1990 led to the creation of the new legal framework for the functioning of democratic civil organisations. Before 1989-1990, minorities (officially acknowledged as “nationalities”, namely, Croats, Germans, Romanians, Serbs, Slovaks, and Slovenians) were represented by the so-called national alliances established at the end of 1940s – first half of 1950s. These organisations had neither membership nor any local branches. Basically, only national centres were functioning (mostly in the capital city with the exception of Romanian centre located in Gyula). Consequently, their connections with the rest of minority populations were rather limited and firmly controlled by the ruling political party. The leaders of the mentioned alliances, named “secretary-generals”, were in fact appointed by the ruling Communist Party, and their activities had to focus on mediation of central party policies in mother tongues instead of the representation and enforcement of special minority interests.

The visible changes started at the beginning of 1970s with the new concept of minority policy, tended to urge minority activities referring to education and culture in order to make minorities living in Hungary play relevant roles in foreign policy.

The new political environment made it possible for the national alliances to extend their activities, to create new structures and to seek connections with minority populations and other social organisations. In certain bodies of political decision-making they had got the right to participate, although in fact it was limited to consultations and expression of opinions.

Liberalisation of the political system soon resulted in further developments; leading to the increased role of the alliances that could then undertake the complex tasks of minority interest representation. In the late 1980s they were able to point out the mistakes and deficiencies of minority policy and to formulate new policy proposals.¹³⁵

In the 1989 the amended Constitution declared the rights of association and assembly.¹³⁶ According to these constitutional provisions, everybody has the right to freely establish and join an association which must not work only for those purposes prohibited by law. (For example, the foundation of armed organisations, as well as organisations pursuing primarily economic activities, is prohibited). On the basis of these regulations, Act 2 of 1989 on the Associations explained the issue in a more detailed way.¹³⁷ In order to establish an association, at least ten members are needed who determine and accept the statutes of the association, and finally register it in the court. The legal supervision of civil organisations is performed by the public prosecutor’s office; such supervision is needed especially for the lawful functioning. Not only the associations, but foundations can also be founded in order to pursue permanently aims of public interest. Since 1995, the so-called public foundations can function, too. These structures can be established by the Parliament, the government, and municipal governments (also by minority self-governments). Since 1997, civil organisations can work as associations for public needs as well, this form means usually more favourable conditions of functioning. The public activities which can be carried out by these special associations include the goals related to national and ethnic minorities.¹³⁸

¹³⁵ See DOBOS Balázs: A magyarországi nemzeti és etnikai kisebbségek autonómiája [The National and Ethnic Minorities’ Autonomy in Hungary]. *Kisebbségkutatás*, 2006/ 3. pp. 513-516.

¹³⁶ Act 31 of 1989 on the amendment of the Constitution. See act 20 of 1949 on the Constitution of the Republic of Hungary. 63. §.

¹³⁷ Act 2 of 1989 on the right of association.

¹³⁸ Act 156 of 1997 on the organisations for public use.

In the field of finances the Hungarian Parliament supports minority civil organisations in the framework of a separate application year by year: in the beginning of 2000s it meant that nearly 250 organisations could share 110 million HUF (approximately 400 000 Euros). Moreover, the promotion of minority organisations and their special activities is ranked among the tasks of other governmental bodies as well. It is worth mentioning that since the change of system, the state promotes the minority civil organisations' activities also through money incentives existing in the framework of tax collection. It means that tax regulations precisely encourage people to donate voluntarily in the interest of public goals, including organisations working for such issues. The most important is that the personal income tax can be decreased if somebody grants an amount of money to foundations (later public foundations as well) in order to carry out activities aimed at issues of public interest. (In Hungary individuals can transfer about 1 percent of their total tax to certain beneficiary organisation. Since 1998, both donations with tax allowance and one percent support can be transferred only to associations for either public use or those for highlighted public use.)

As it was demonstrated above, the minority alliances could not meet the democratic requirements and perform like minorities representatives. The necessary transformations – in connection with the ongoing change of system – started in 1988 and, generally speaking, this process included the creation of local organisations, memberships, democratic internal structures and mechanisms, and the enhancement of the role of elected leaders. Furthermore, the democratic right of association made it possible to institutionalise and represent different interests and concepts within the same community. Consequently, certain organisational pluralism on the national level resulted in the fact that divided minorities were represented by several organisations, thus making negotiations with the state bodies rather complicated.

Certainly, the idea of representation by the elected minority bodies (self-governments) gained ground under such circumstances and was reflected in the process of drafting the Minority law which began yet in 1988. The right of associations made it also possible for those minorities which were not recognized in the Communist era (Armenian, Bulgarian, Greek, Gypsy, Polish, Rusyn, and Ukrainian) to establish their own organisations and by these means to enforce their interests.

The 1989-1990 amendments to the Constitution enriched the minorities with the right of collective participation in public life and the 1993 Minority law also dealt with the issue of minorities' civil organisations. According to the latter, the minorities' participation can not be restricted and in order to represent and protect minority interests, they can establish associations, parties and other kind of social organisations which should observe the constitutional provisions. Moreover, these minority organisations have the right to build and maintain widely and directly international relations.¹³⁹ Although the political decision-makers wanted the newly establishing minority self-governments to play determinative role in public life instead of the existing associations, the laws urge basically these two forms of organisations (namely associations and self-governments) to cooperate and divide labour with each other, especially in the field of applications.

According to the latest data of the Hungarian Central Statistical Office 46 foundations, public foundations and 369 other organisations worked in domain of protection of minority rights and 97 foundations and 401 associations dealt with cultural activities in Hungary in 2003. The official number of members of the former group dealing with minority rights is more than 68 thousands and by the latter group it is over 26 thousands.¹⁴⁰

¹³⁹ Act 77 of 1993 on the rights of national and ethnic minorities. 10. 17. 19. §,

¹⁴⁰ See MAYER Éva (ed.): *Kisebbségek Magyarországon 2004-2005* [Minorities in Hungary 2004-2005]. Budapest, Nemzeti és Etnikai Kisebbségi Hivatal [Office for National and Ethnic Minorities], 2005. 206. p.

In the middle of 1990s the cooperation between the minority associations and the newly elected minority self-governments both on national and local levels became the issue of crucial importance. In the early period the level of cooperation was much lower than it was expected. However, later activists realised that cooperation is the best way to obtain as many resources as possible from different sources.

Regrettably, since the late 1990s the common work and division of labour became more difficult in those minorities' settlements affected by the so-called "ethno-business". In this case the minority organisation, represented by mostly authentic activists, and the local minority self-government including "suspicious representatives", are failing to cooperate fruitfully.

The relationship between the minority organisations within the same community is not so simple either. This phenomenon is most visible at the national level associations. There are basically few models of minorities' representation by these organisations. The main feature of the first model is only one minority organisation which dominates and organises minority public life on the national level (Bulgarians, Croats, Greeks, Serbs, Slovenes, and Ukrainians). Naturally, this situation does not preclude the possibility for the other organisations to work mostly at local and regional levels and does not preclude potential conflicts and tensions among them.¹⁴¹ Another model can be characterised by the existence of several (at least two) organisations which does not mean strong divisions within the minority. Rather this arrangement means that certain minority organisations could somehow develop a division of labour, so there are different organisations for youth, artists, teachers etc (Germans, Poles, and Slovaks). The German case is especially interesting because the earlier existing alliance came to an end right after the minority law was enacted, and instead of this several other associations work on national level nowadays. A third group can be the one which is characterised by evident conflicts and tensions among different organisations operating at national level (Armenians, Gypsy, Romanians¹⁴², Rusyns¹⁴³). The reasons can be personal, linguistic, cultural, political and conceptual as well. The conflicts were most obvious during the elections of national minority self-governments in the past, when complex interest groups were pushed out from the state bodies because of the single majority voting system.

The 2005 amendment of the Minority law changed this system, and a proportionate voting has been installed instead, which makes it possible for the minority organisations to obtain mandates. At the same time, this latest amendment allows civil organisations to play much more relevant part in minority public life than it was earlier. Specifically it means that from that time on, the candidates for the elections of minority self-governments must be only those candidates put forward by minority civil organisations. Therefore, non-affiliated persons were no more allowed to nominate themselves. At the elections of local minority self-governments on 1st October 2006, conducted according to the modified regulations, 233 minority organisations could have

¹⁴¹ The Ukrainians' determinative organisation, the Ukrainians' Cultural Association in Hungary (<http://www.ukrajinci.hu>) was established in 1991 and has outstanding relations with the national self-government. But the cooperation with the Ukrainian intellectual organisation (Ukrainian Intellectuals' Association in Hungary) founded in 1995 is not developed so far.

¹⁴² The oldest and most influential Romanian organisation, the Romanians' Cultural Union in Hungary was originally established in 1948 (<http://www.romanul.hu>). See PETRUSÁN György – MARTYIN Emília – KOZMA Mihály: *A magyarországi románok* [The Romanians of Hungary]. Budapest, Press Publica, 1999, pp. 114-116. Its rival organisation is the Romanians' Coalition in Hungary.

¹⁴³ The Rusyn minority has two determinative organisations: the first, the Rusyns' Organisation in Hungary was founded in 1991 and the second, the Rusyns' National Alliance in Hungary, in 1997. The latter mostly represents those Ruthenians who migrated from Ukraine. See DEMETER ZAYZON Mária (ed.): *Kisebbségek Magyarországon 1999* [Minorities in Hungary 1999]. Budapest, Nemzeti és Etnikai Kisebbségi Hivatal [Office for National and Ethnic Minorities], 2000. 151. p.

nominated more than 19 thousands of candidates and successfully elected 2045 local minority self-governments.¹⁴⁴

III.2 Moldova

III.2.1 Overview

The democratic development of Moldova since 1991 offers new opportunities and facilitates the participation of community members in promotion of democratic values within civil society. Democratic framework points out the capacities of governmental institutions to communicate with civil society, as long as NGOs members are the society's representatives, no matter of their ethnic and confessional background or political affiliation. In such a way, they act to ensure and monitor the degree of respect of democratic values. Regarding the post-communist states, it is necessary to mention that civil society is being built in the conditions of a post-totalitarian society, where NGOs' activities had no possibility to emerge and develop for almost half a century of the communist rule.

Thus, the establishment of civil society in Moldova takes place in accordance not only with the new conditions, but also with a part of inherited system. This legacy becomes visible while analysing NGOs' activities, which very often do not correspond to the real needs of the society or do not reflect the real potential of NGOs' members.

In comparison to Romania, the legal differences regarding national minorities' representation in the Parliament and in Local Councils of Moldova are obvious. Therefore, for NGOs other indicators are being used while monitoring their involvement in social-political processes.

It is obvious that the most lasting NGO activity is that in which each part gets involved and participates actively, especially if we talk about a society in which you can hardly find a mono-ethnic community. The 15 years of experience in the Republic of Moldova proves how easily the traditions of multicultural society can be lost when the social institutions are either in a formation process (NGOs) or in a reformation process (Central and Local Public Administration). Thus the insubstantiality of the activities undertaken by both the LPA and some NGOs has facilitated the manipulation of the multicultural social environment by the political forces, ending in the division of the society.

Any integration into social environment process (customs, traditions) may be promoted step by step by improving the legislative framework. Moldovan context demonstrates that the ethnic majority and minorities are encouraged to collaborate and coordinate their activities. This is caused by the fact that the regions that are inhabited by minorities are multicultural and only a few villages in the south of Moldova could be defined as places of compact residence. This statement is reflected in the country's ethnic map (*"Major ethnic groups in the Republic of Moldova"*, (See Appendices, Map 1).

During the last years, not only the issue of building partnerships between NGOs and governmental institutions, but also the elaboration and implementation of an efficient mechanism of collaboration among NGOs themselves is more frequently debated. The models which reflect the lack of cooperation are rooted in the traditional dependence of NGOs' leaders on the state institutions. In other words, it is easy to promote new ideas and to get new experience, but if the

¹⁴⁴ www.valasztas.hu.

ideas and experience do not rely on the specific realities of those communities it leads to inefficiency and erosion.

Despite the fact that the partnership is being built, the mechanism still remains to be elaborated by the LPA, CPA and minority NGOs by testing new models of collaboration. For the establishment of this kind of relations the communication plays a great role.

According to the official data, in the Republic of Moldova there are about 3200 NGOs, 90 of which represent national minorities, and 300 NGOs are located on the left side of the Dniester River. Usually, they can be classified by their activities specified in the programmes and statutes, according to which they were registered. In comparison with the other NGOs, the activity of 90 NGOs representing national minorities is specially directed toward cultural and spiritual renaissance. The specified range of activities is not only different, but also divergent, leading to the maintenance of split in the society or bearing a potential for conflicts among society's members.

Because of the legislative discrepancies existing in the Law on NGOs (1996), and also in the Law on national minorities (2006), the activities undertaken by the NGOs not always meet the declared programme and statute.

In conclusion, the low effectiveness of national minorities' NGOs can be caused by:

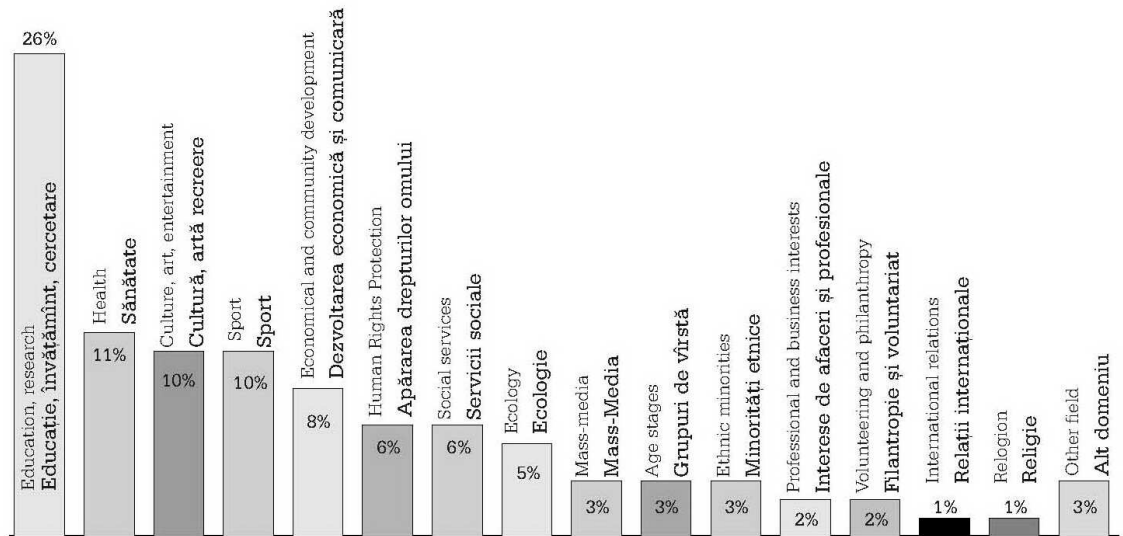
- poor awareness of the need to collaborate among themselves, including the creation of a council independent from the Bureau for National Minorities;
- lack of understanding of the need to cooperate with NGOs from other domains in order to increase the efficiency of their ongoing and future activities;
- discrepancies between the official declarations and the real activities;
- dependence on exterior financing;
- insufficient involvement in the implementation of the Economic Growth and Poverty Reduction Strategy (SCERS) and other national and regional programmes.

III.2.2 Models of minorities NGOs' cooperation

The main indicator for the NGOs classification is the type/field of their activity. For example, in the "*Study on the Development of Non-governmental Organizations in the Republic of Moldova*" the principal fields of their activities are: education and research (26%); social service (6%) and ecology (5%). The details of this stream are reflected in the Diagram 1 - "Principal Fields of NGOs activities":

Diagram 1

Principal Fields of NGOs activities

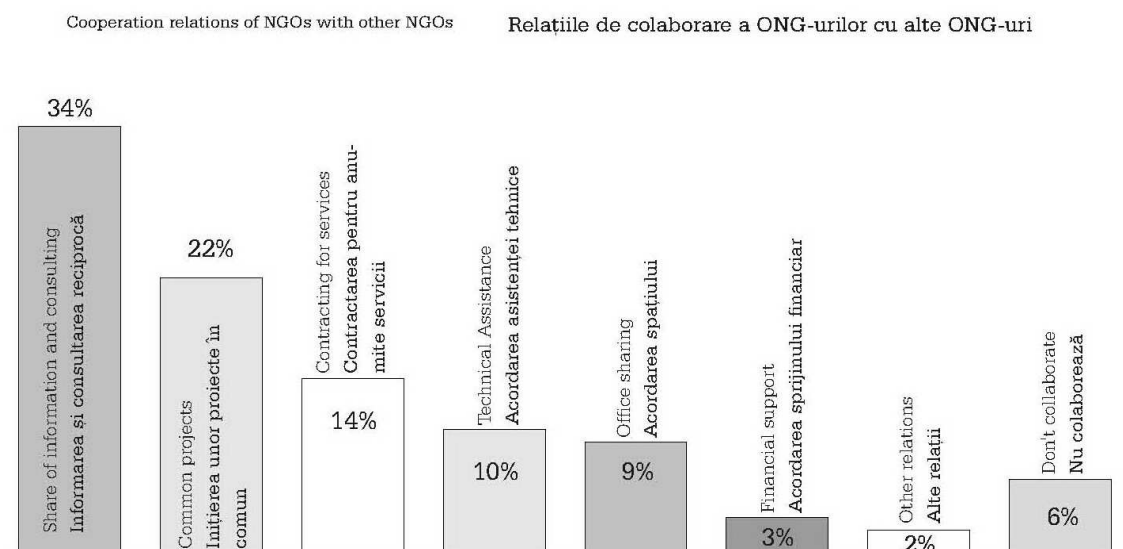


Another indicator is the participative one, including the example of national minorities' NGOs presence in the Civil Coalition for Free and Coherent Elections (Coalition 2005). This was the first coalition of this kind after the adoption of the Declaration of Independence of the Moldova, which represents an attempt of NGOs' to accomplish one of the main objectives – to be a guarantee of meeting democratic values in the society.

The majority of NGOs perform their activities in Chisinau, Balti and other cities where they have access to information, trainings or donors' resources. Therefore, a very insignificant number of activities take place in rural areas. In order to enhance their activities, NGOs join different types of coalitions, e.g. National Council of Youth NGOs, Ecological Movement, European Movement, Alliance of NGOs active in social domain, ProGen Alliance, ADEPT, CAPTES, etc. The importance of the cooperation among them is reflected in the survey below. 93% of the participants indicate that the relations of cooperation within civil society sector are insufficient. More information about the main fields of cooperation is included in the Diagram 2 – “Cooperation relations of NGOs with other NGOs”:

Diagram 2

Cooperation relations of NGOs with other NGOs



The intensity of cooperation is getting higher as a result of the implementation of common projects in specific areas. Among the most impressive examples, the initiatives of the the Chisinau Municipality Town Hall and the Bureau of National Minorities can be named, since they have managed to establish and to promote a complex mechanism of cooperation with minorities' NGOs.

Chisinau Municipality Town Hall, where 23 ethno - cultural organizations are registered, defines as one of its main priorities the activities aimed at promotion of history, culture, language, ethnic traditions of the minorities represented by these organisations. The ethno-cultural organisations registered under the umbrella of Chisinau Municipality are acting within the framework of the Programme of Actions approved at the beginning of each year by the General Mayor of Chisinau Town Hall.

The Municipal Council of Chisinau grants periodically financial support to these organisations for the realisation of their statutory objectives. A number of the minorities' organisations were supported in their efforts to rent or to obtain their offices.

Also, the ethno-cultural organisations, as well as representatives of other different ethnic groups, participate each year in the most important cultural activities organised by the Municipality: the day of the city of Chisinau, the international day of children, the day of the Republic, "*Limba noastră*", the festival "*Cintecul Popular Pascal*", "*Pentru tine, Doamne*", the festival-contest "*Florile Dalbe*", "*Cintecele Credintei, Sperantei, Iubirii-Victoria*", "*Vom ura, vom tot ura...*", contest of the gifted children "*Grai si suflet*", etc. The organisations which participate in these events are the following: the ensemble of the Ukrainian high school "*N. Levitchi*", the ensembles "*Caramelchi*", "*Romantica*", "*Sonor*" from the high school "*N. Gogol*", the ensemble of the Russian high school "*A. Cantemir*", the Bulgarian folk groups "*Capelchi*" and "*Vigleanci*", the folk vocal ensemble "*Sudarusca*", the Roma ensemble "*Romii*", the Ukrainian ensemble from the high school "*Kotiubinschi*", the artistic groups of the Jewish cultural centre, the ensemble of dances and songs from the high school "*P. Movila*", vocal ensemble "*Cocvasin*".

At the same time, the ethno-cultural organisations unfold various cultural actions, stipulated in the activity programme:

1. The days of the Ukrainian, Russian, Byelorussian language and culture;
2. The Ethnic festival;
3. Public events dedicated to writers, outstanding personalities of the nation;
4. National holidays: "*Maslenita*", "*Novruz Bairam*", "*Fasing*", "*Weinachhten*", etc.;
5. The Roma day.

Central and local public authorities of the Republic of Moldova make efforts to preserve cultural variety, create necessary conditions for the preservation and development of ethnic, cultural, language and religious identity of national minorities. The practical maintenance of cultural rights of national minorities in the Republic of Moldova is based on the interaction of state institutions and ethno-cultural organisations of the national minorities. In this regard, a network of cultural establishments of national minorities has been created. Among them:

- a library of Bulgarian literature "*Hristo Botev*" (Chisinau);
- a library of Jewish literature "*Itsek Manger*"(Chisinau);
- a library of Ukrainian literature "*Lesea Ukrainka*" (Chisinau);
- a library of Russian literature "*Mihail Lomonosov*" (Chisinau);
- a library of Gagauz literature "*Mihail Chakir*" (Chisinau);

- state Russian drama theatre “A.P.Chehov” (Chisinau);
- national Gagauz theatre by after “Mihail Chakir” (Ciadir-Lunga);
- Bulgarian drama theatre after “Olimpii Panov” (Taraclia);
- a republican musical lyceum - boarding school “Serghei Rahmaninov” (with Russian language of instruction) (Chisinau);
- a museum of “Alexandr Pushkin” (Chisinau);
- Bulgarian folk group "Rodoliubie" (Taraclia);
- Gagauz folk group "Kadinja" (Comrat) etc.

All over the country, local amateur folk groups are founded at schools, lyceums by ethno-cultural organisations. According to the data of the Ministry of Culture, in the Republic of Moldova there are 525 amateur folk groups representing national minorities' culture, including: Ukrainian - 259; Russian - 119; Gagauz -39; Bulgarian - 43; Roma/Gypsy - 1.

63 groups have been awarded the honourable rank "exemplary", among them: Ukrainian - 11; Russian - 20; Bulgarian - 7; Gagauz - 15; Roma/Gypsy - 1.

The Ministry of Culture of the Republic Of Moldova has signed more than 30 international agreements on cooperation in the field of culture, paying special attention to cultural exchange with the countries of the CIS. In the Republic of Moldova the Days of Russian Federation Culture, Days of Ukrainian Culture, Days of Byelorussian Culture are traditionally organised.

The role of public ethno-cultural organisations, whose purpose is the assistance in preservation and development of cultural originality, traditions and customs of the represented nations, is extremely important. These organisations actively cooperate with state cultural institutions. The following cultural activities organised by the NGOs in cooperation with the state institutions have become a tradition:

- days of Slavic literature and culture,
- a holiday of Pushkin's poetry,
- memorial days of Taras Shevchenko
- a holiday of Bulgarian enlighteners
- festival of the Jewish book,
- Polish spring festival in Moldova,
- Ethno-cultural festival.

The ethno-cultural festival, a new national holiday, was approved by the Decree of the President 1396 from March 30, 2000, and the Decision of the Government of the Republic of Moldova 1106-596 from 7April 2000 "About ethno-cultural festival organisation". The festival is conducted annually and has the status of a republican holiday.

For a better cooperation and collaboration among national minority's NGOs in the Republic of Moldova and minimisation of some political manipulations, including those at the local level, it would be reasonable to establish a Centre for all NGOs and to stop the transformation of the NGOs' premises obtained from Mayoralties (Town-halls) into private properties. The premises of the all-national NGOs may be a new one or the one where the Bureau for National Minorities

is located. Thus, all the NGOs will be set in the same fair conditions, and their activities will be increasingly based on the problems of the national minorities they are representing. In such a way, communication between NGOs belonging to different minorities would also be improved, including the acquired opportunity to share experience and pull together all the resources necessary to solve common problems faced by minorities.

Promising developments could also be expected on the partnership agreement between civil society and state institutions signed in 2006 in accordance with the Actions Plan Moldova – European Union and aimed at overcoming the distrust and social splitting that the Republic of Moldova is confronting with after 1990.

The main point is to involve the minority NGOs in accomplishing civil actions concerning human rights and liberties regardless of their ethnic, confessional and political affiliation or their residence ambience, etc.

The obstacles for the creation of effective models of cooperation and partnership are the following:

- The imperfection of the normative framework;
- The ambiguous and incomplete stipulations of the Fiscal Code that refer to taxing income gained from the activities that correspond to their status goals
- The lack of single book-keeping standards of public finance of NGOs for the resolution of certain social problems;
- The absence of a strategic concept and of governmental programmes for involving the NGOs into the implementation of state programmes at the national and local level and the execution of the state policy;
- Tergiversation of the adoption by the government of a resolution regarding the regulations on charitable donations confirmation;
- The lack of efficient juridical mechanisms regarding the access to public information, to the draft laws, normative documents of central and local public administration;
- The insufficient regulation of the procedure of public participation in decision making process;
- Insufficient involvement of NGOs in the implementation of the State programmes at the national and local level;
- The partnership between NGOs and state institutions (ministries, departments, county and local councils, town halls) is still undeveloped, and can be characterised as sporadic;
- Insufficient promotion of partnership models between NGOs and the public administration;
- The lack of adequate models of NGOs joint activities, in both joint programmes and joint actions within different projects ;
- The lack of cooperation in the process of strategic communities pre-planning.

III.2.3 Relationships between NGOs and governmental institutions /agencies

It is obvious that the collaboration of the NGOs with state institutions in Moldova is delayed. The number of NGOs (87 %) cooperating with LPA and state organisations in various fields is

impressive. However, only 18 % have common projects with Local or Central Public Administration, and with the same number of NGOs local authorities usually have consultations on different issues. Besides that only 14 % of NGOs are contracted for special services or activities. Even less organisations (11%) including ethnic minorities' NGOs participate in the decision-making process (See Diagram 3 - "Cooperation relations of NGOs with Local Public Administration").

Only 47% of the organisations that cooperate with the State are satisfied with their level of cooperation and consider that these relations are mutually beneficial and need to be further developed.

At the same time more than a half of NGOs aren't quite or at all satisfied by this cooperation (51%). Each eighth' NGO is of the opinion that LPA and State agencies are not informed enough and are not familiarised with the activities that NGOs carry out and because of this there exists a certain distrust or underestimation of the NGOs' capacities and potential.

The LPA's and state institutions' lack of trust in NGOs and in their capacities was defined as a problem by 10% of NGOs. Inefficient communication between the NGOs and state bodies (17%) and poor involvement of NGOs into decision-making is considered to be the reason of the problem by 17% and 13% respectively.

Moreover, the NGOs' lack of enthusiasm in cooperation with LPA and the state institutions is also the result of the LPA and state institutions attempts to subordinate NGOs, although it is forbidden by law. 5% of NGOs have mentioned the fact that LPA and state institutions are making attempts to control civil society's activities. Mostly, this is typical for 12 % of NGOs from the South of the state and for 11 % of NGOs in the urban area.

The NGOs also emphasise the lack of transparency in the activities of state institutions (12%), limited access to public information (8%). Limited access to public information was mentioned especially by the NGOs active in the field of human rights (18%), in the urban areas (16%) and in the North (14%). At the same time over 10 % of NGOs consider that their relations of cooperation with LPA and state organizations are also affected by the imperfection of the existing legislative framework in Moldova.

Legal framework on developing partnership among NGOs and governmental institutions:

- Constitution of the Republic of Moldova - July 29, 1994;
- The Republic of Moldova Law regarding the political parties and other socio-political organizations -1991;
- The Republic of Moldova Law regarding creeds, Nr.979-XII from march 24,1992;
- The Republic of Moldova Law regarding the trade unions - 1990;
- Civil code Nr. 1107-XV from June 6, 2002;
- Fiscal Code Nr.1163-XIII from June 24, 1997;
- The Republic of Moldova Law regarding public associations, nr. 837, May 17, 1996;
- The Republic of Moldova Law regarding foundations nr. 581-XIV, July 30 1997;
- The Republic of Moldova Law regarding the access to information, May 11, 2000.

Among the other reasons is the fact that quite often state institutions feel jealous when the NGOs successfully assume the role of leaders in the promotion of public policies. Therefore till now not a single National Programme of collaboration of central and local public administration with the civil society sector has been implemented.

Another field of activities aims refers to the information regarding the national minorities' historical and cultural monuments.

Besides that, according to the Resolution of the Government of the Republic of Moldova Nr. 167 from February 26, 2001 "Regarding the National Program of improving the study of the state language for adults, 2001-2005" and the decision of the of the Chisinau Municipality Town Hall Nr. 1/2 from 28.09.1999 courses of improving of the linguistic skills for the minorities and courses of improving of the linguistic skills for the Romanian speaking people are organised by the Centre of Culture and Didactical Assistance "House of Romanian Language", "Linguistic Centre". Besides that, Romanian Language Courses by the General Direction of Education, Youth and Sport, are systematically organised free of charge.

These linguistic centres, founded under the aegis of the Chisinau Municipality Town Hall have the mission to extend the area of using the state language in the Republic of Moldova, as well as the execution of the legislative stipulations.

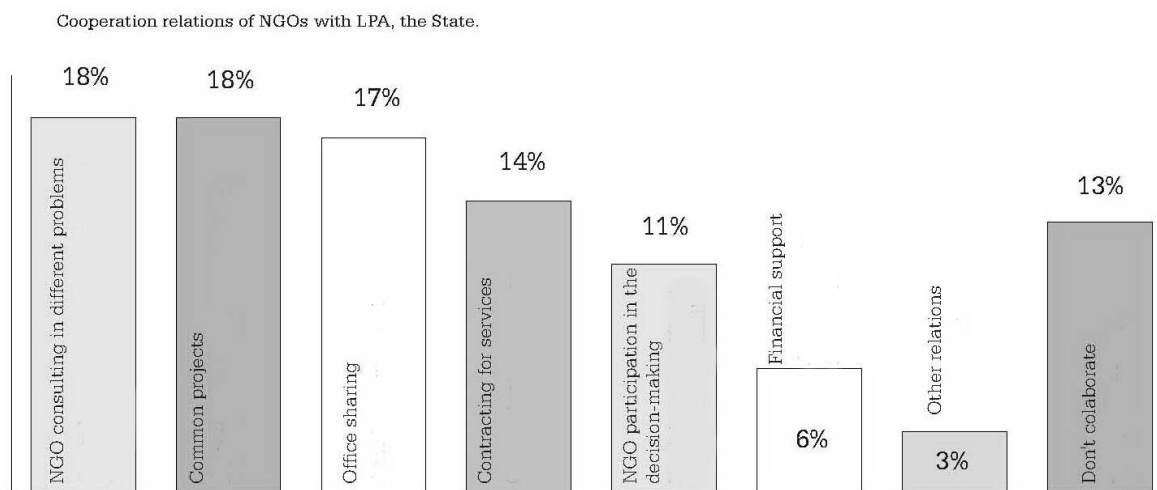
In conclusion, we consider that an adequate model of partnership between NGOs and authorities for the Republic of Moldova should be enhanced by the following steps:

- Defining of the social problems and their objective evaluation;
- Making the decision-making process more efficient;
- Increasing the transparency of public administrative authorities and NGOs activities;
- Stimulating active participation and representative groups' implication in administrative decisions elaboration;
- The implementation of the major national programs and strategies;
- Assurance of principles of: equality, efficiency, partnership, independence and non-intervention, public well-being, mutual responsibilities of state institutions and civil society, mutual information exchange, and assurance of the access to information;
- NGOs encouragement in coordinating the efforts aimed at protection of human rights;
- Consistency in the government collaboration with the society;
- The involvement of civil society and academic community in the elaboration of draft normative documents and programmes;
- Elaboration of a collaboration strategy among civil society and state institutions for a 5-year term;
- Consolidation of the NGOs networks through the participation of national and international donors;
- The cooperation of NGOs with the public administrative authorities based on the principles of: legality, true fellowship, transparency, professional ethics and political non-alignment;
- Clear delimitation of the attributions of each part and of the common commitment;

- Elaboration and approval of the real involvement instruments of NGOs in planning, defining and administration of the public policies;
- Signing the bilateral and/or multilateral agreements between state institutions and NGOs regarding the accomplishment of the common activities in specific domains.

Diagram 3

Cooperation relations of NGOs with Local Public Administration



Source: *Study of NGOs development in Republic of Moldova, 2004.*

III.3 Romania

A little over 10 percent of the total population of Romania is made up of ethnic groups other than Romanians (See Appendices, Table 8). The 20 recognised national minorities constitute a large part of this diversity along with other groups not given this status (the Csángós) and the new minorities forming immigrant communities (such as Chinese, for instance).

The Romanian legislation allows national minorities not only to organise and create civil organisations, but also to participate in local and parliamentary elections with candidates proposed by these organisations. Moreover, the Romanian Constitution grants one seat each in the Chamber of Deputies for the 20 minorities according to the process presented already in Chapter 2.

Minority civil society can be divided into three ad hoc groups taking into account the role the organisations play: Hungarian civil society, Roma civil society and small minorities' cultural organisations.

Hungarian civil society, although not very visible in Romanian public life, is active and extremely diverse. This is not surprising taking into account the fact that many have their roots in charity, scientific or professional organisations founded over 100 years ago, during the Austro-Hungarian Empire. Though repressed under communism, many organisations restored their activities with little or more success and the RMDSZ, proportionally with its growing political clout, founded a series of umbrella organisations that come to assist the Hungarian government in distributing funds allocated by the national budget to minority Hungarians abroad, in this case Romania.

Recently, the RMDSZ's monopoly over political representation at local, county and – possibly – national level has been challenged by a couple of political organisations. The MSZP (Magyar Polgári Szövetség – the Hungarian Civic Union), based in Odorheiu Secuiesc ran for local council seats in 2000 and won a majority even though they have remained unable to collect the necessary number of signatures recently to register as a political party. In addition, the SZNT (Székely Nemzeti Tanács – the Szekler National Council) has been pushing for regional autonomy in the two Hungarian (Szekler) counties in the heartlands of Romania, although their aim is not to replace or compete against the RMDSZ nation-wide. In spite of these drawbacks, it is evident that the Hungarian minority has (nominally at least) some political choices besides the RMDSZ.

In the context of democratisation, the Roma movement (Roma civil society) started to represent the Roma communities' interest, to act for the improvement of Roma's situation and for the improvement of Roma's image in society early on. The number of Roma NGOs grew fast from 100 (in 2000) to approximately 200 (in 2004), but most of the Roma NGOs still lack human resources, knowledge regarding organisational management, financial resources and self-sustainability, subsequently the absorption of governmental and international funds has been low. However, about 20 Roma NGOs have become increasingly visible since they succeeded to focus on and gain expertise in: the protection of human rights, community development, health, education, vocational training and access to the labour market.

The third category of minority organisations is established by those of the “small” minorities the primary aim of which is to represent the respective minorities in the Council of National Minorities and the Romanian Parliament. Their activities, in addition to running a Representative's Office, are mostly cultural. Several, however, are window dressing for the so-called “ethno-business”.

The Union of Ukrainians in Romania was founded in 1990 and subsequently, several other cultural organisations have come to existence. Their activities are not visible in public life. Just before the 2000 general elections, an organisation of the Ruthenian minority was formed, concomitantly with an organisation of the Macedonian Slavs whose very little numbers in the most recent census are strongly outnumbered by the members of the new organisation.

Table 1 below presents the differences in the number of votes obtained by the organisations presenting candidates in the past three legislatures, with high variations from one election to another. The brackets show the number of organisations per minority that presented their candidates in elections¹⁴⁵.

Table 1

Number of votes obtained by the organisations presenting candidates in the past three legislatures

National or ethnic minority	Votes gathered in the 1996 elections	Votes gathered in the 2000 elections	Votes gathered in the 2004 elections
Roma	159,521 (5)	83,597 (2)	71,117 (2)
German	23,888 (1)	40,844 (1)	36,166 (1)
Bulgarian	9,474 (2)	34,597 (4)	25,588 (3)
Ukrainians	11,297 (2)	15,427 (2)	10,888 (1)
Lipovan Russian	11,902 (1)	11,558 (1)	10,562 (1)
Croat	486 (1)	14,472 (3)	18,100 (2)
Armenian	11,543 (1)	18,341 (1)	9,810 (1)
Macedonian	---	8,809 (1)	25,689 (3)

¹⁴⁵ Marian Chiriac. *The Challenges of Diversity. Public policies for national and religious minorities in Romania*. Cluj, EDRP Publishing House, 2005, pp. 107-108.

Jewish	12,746 (1)	12,629 (1)	8,449 (1)
Turk	4,326 (1)	10,628 (2)	21,638 (3)
Greek	9,972 (2)	19,520 (4)	7,161 (1)
Serb	6,851 (1)	8,748 (1)	6,643 (1)
Tartar	6,319 (1)	10,380 (1)	6,452 (1)
Italian	25,232 (7)	37,529 (2)	11,349 (2)
Slovak	6,531 (1)	5,686 (1)	5,950 (1)
Polish	1,842 (1)	6,674 (2)	10,632 (2)
Albanian	8,722 (1)	18,341 (2)	5,159 (1)
Ruthenian	---	6,942 (1)	2,871 (1)

The next table (Table 2) shows the number of votes obtained in the last election by the organisation present in Parliament with the total number of people declaring themselves in the last elections as belonging to that particular group, showing in some cases great difference between the number of votes obtained and the number of people of the particular ethno-cultural group¹⁴⁶.

Table 2

Ethnic belonging	2002 census	Organisation representing minority in Parliament (2004-2008)	Number of votes obtained in the November 28th 2004 general elections
Hungarian	1,434,377	Uniunea Democrată a Maghiarilor din România	628,125
Roma	535,250	Partida Romilor Social Democrată din România	56,076
Ukrainian	61,353	Uniunea Ucrainenilor din România	10,888
German	60,088	Forumul Democrat al Germanilor din România	36,166
Lipovan Russian	36,397	Comunitatea Ruşilor Lipoveni din România	10,562
Turk	32,596	Uniunea Democrată Turcă din România	7,715
Tatar	24,137	Uniunea Democrată a Tătarilor Turco-Musulmani din România	6,452
Serb	22,518	Uniunea Sârbilor din România	6,643
Slovak	17,199	Uniunea Democratică a Slovacilor și Cehilor din România	5,950
Bulgarian *	8,025	Uniunea Bulgara din Banat – România	15,283
Croat	6,786	Uniunea Croaţilor din România	10,331
Greek	6,513	Uniunea Elenă din România	7,161
Jewish	5,870	Federația Comunităților Evreiești din România	8,449
Czech	3,938	Uniunea Democratică a Slovacilor și Cehilor din România	5,950
Polish	3,671	Uniunea Polonezilor din România „Dom Polski”	5,473
Italian	3,331	Asociația Italianilor din România RO.AS.IT	6,168
Chinese	2,243	–	–
Armenian	1,780	Uniunea Armenilor din România	9,810
Csángó	1,266	–	–
Macedonian Slav	695	Asociația Macedonenilor din România	9,750
Albanian	477	Asociația Liga Albanezilor din România	5,011
Ruthenian	257	Uniunea Culturală a Rutenilor din România	2,871
Slovenian	175	–	–

* in bold those minorities are indicated whose numbers are considerably smaller than those of the voters for their respective minority organisation.

The differences put into question the efficiency of the system: ensuring the right to representation of national minorities at the national level, or rather the seat in the parliament has become for some the opportunity to access resources conditioned by parliamentary status – financial support distributed by the Council for National Minorities. In some cases, the person obtaining the parliamentary seat was accused of not really belonging to the represented national

¹⁴⁶ Data of the Central Electoral Bureau. http://www.bec2004.ro/documente/Tvot_CD.pdf accessed January 13th, 2007.

minority (the Macedonian both in the 2000-2004 and 2004-2008 legislatures; the Italian during the 2000-2004, and the Ruthenian representative since 2000).

Out of all officially recognised minorities, the Hungarians have been the only ones not to be represented in Parliament according to the legal procedure saved for national minorities as they compete as any other political party. The first parliament after 1989 included representatives of the organisations of 11 minorities: Germans, Roma, Lipovan Russians, Armenians, Bulgarians, Czechs and Slovaks, Greeks, Poles, Ukrainians and Turks. The number of organisations has been on the rise from legislature to legislature: in the 1992-1996 Parliament there were 13 (the above mentioned organisations, plus the ones representing Italians and Tatars), the 1996-2000 Parliament included representatives of 15 minorities (Albanians and Jews were added), and the last two legislatures had 18 minority organisations presented in parliament (the last added are the Croats, the Ruthenians and Macedonians).

Summarising, minorities' civil society – depending on the national minority group – plays very different roles and serves very different purposes, varying in scope and substance. The Hungarian minority, due to historical developments, has been able to mobilise a variety of different formal and informal groups working in the benefit of local communities and the national minority community at large. It has proved effective in creating formal and informal networks of Hungarian ethnics, enabling information and resources to move around faster and with greater efficiency. Hungarian civil society is, therefore, an important asset in community development and building of trust. This positive feature, however, is undermined by the fact that the Hungarian civil society has become less flexible and competitive in resource accumulation than the Romanian civil society at large due to the massive influx of resources from the Hungarian government. In other words, the generosity of the kin-state in the early 1990's, when resources were scarce, developed a side effect of passive resource acquisition, leaving Hungarian civil society unable to develop skills and acquire information regarding alternative sources of funding, implicitly other standards of competition and, hence, the scope of activities one organisation can carry out.

Roma civil society – with hardly any roots – in the 1990s has been extremely shy and isolated from the effects of the mainstream's democratisation and, implicitly, development of civil society. Lack of skills, knowledge, expertise, as well as the inability of members of the Roma community to make their voices heard in this form made Roma civil society weak and easy to be neglected at the national scale. The formulation of Roma issues in a comprehensive and flexible manner at a trans-national level, as well as the demands of European intergovernmental agencies addressing of Roma issues in Central and Eastern European countries, stimulated Roma civil society at large and transform originally feeble attempts into significant contributions to Roma's welfare.

“Small” minorities' organisations have become vehicles to get representation in the Romanian parliament. In spite of the trends of some state institutions in Romania to neglect the issues of ethnic and religious minorities, the attempts have been made both locally and nationally to promote ethno-cultural diversity and emphasise Romanian society's multicultural nature. Although minority organisations still represent a way to gain access to governmental funds, increasingly they are becoming the partners in and initiators of cultural events and activities for the communities they live in.

Today, the tendency as far as civil society is concerned is to look for collaboration and the establishment of durable partnerships amongst a variety of different actors. As a result, established NGOs court the cooperation of formal and informal groups locally, as well as the aid of local authorities, enhancing the effectiveness of projects of all sorts. Although one can trace

strong differences and sometimes an explicit parallelism among different communities' civic organisations, this is inclined to come to an end.

III.4 Ukraine

III.4.1 General Characteristics

The interest towards minorities' rights protection was expressed by the Ukrainian civil society since the early days of independence. Such interest was reflected in the activities of ethnically- or religiously-based organisations as well as by the human rights NGOs (the latter initiated in the late 80s – early 90s mostly by leaders of the former dissident movements). Both types of the organisations emphasised the necessity of and called for developing a strategic vision of the ethnic policy of their newly independent state. However, although wide public interest to majority-minority relations and related issues was drawn by both the actors of civil society and politicians, and basic political consensus as to the importance of clear formulation of Ukraine's ethnonational policy was reached, the process of the development and adoption of its concept is not yet completed, despite all the endeavours of the last fifteen years. This failure might be explained by quite different views and approaches towards such fundamental notions as “titular ethnos”, “civic/political nation”, “national minority”, “indigenous peoples” etc., reflecting, to some extent, divergences between not only different political forces but also among civil society activists.

Although the issue is still being discussed, respectively, on the civil society and experts' community level and by the governmental officials, the attempts to combine the results of those efforts have often failed. Despite the still persisting interethnic tolerance and peaceful relations, growing xenophobia – including hostile attitude towards some “traditional” and new “visible minorities” – has been recorded by sociological surveys, as well as by the official statistics of crimes perpetrated at the ethnic or racial ground. The absence of interethnic clashes and bloody conflicts can, therefore, be attributed to national historical tradition rather than the conscious deliberations of state's responsible bodies, including law-makers. New legislative framework for the governmental ethnic policy, which should be in line with the European norms and standards and enjoy support from below of the activities of civil society, who take into account the experience of their counterparts in other European countries, is still under the process of development.

General scope of the development of civic activities and initiatives can be judged by the growing number of non-governmental organisations involved in different spheres of public and social life. Quite impressive dynamics of these processes is reflected by a number of minorities establishing their own NGOs: at the beginning of 1995, 31 ethnic minorities thus institutionalised their needs and interests, in 1998 – 38, in 2003 – 43, in 2005 there were 46 ethnic entities represented by particular NGOs or their associations.¹⁴⁷

General number of minority organisations is also rapidly growing. Exercising their right of assembly, national minorities in Ukraine established in the first decade of independence more than 400 public organisations, 24 of them having the all-Ukrainian status (at the early 1995 nearly 260 national-cultural associations were functioning, among them – 18 all-Ukrainian ones).

Since the attempts to become more “visible” in a given society, especially by creating legitimate institutions, might be considered – at least to some extent – as an expression of the general activeness of a certain community, it is also of interest to present some figures concerning the

¹⁴⁷ See more: Public organisations of ethnic minorities of Ukraine: the nature, legitimacy, activities (in Ukrainian). By L.I. Loyko, Kyiv, 2005, pp. 1 – 633

number of minority-specific NGOs, and compare them with the data on a relevant size of this or that particular minority.

As has been expected, the largest **Russian minority**, amounting to **8 ml 331 thousand** people and comprising 17, 3 % of the whole population, officially registered (according to data for 2005) quite impressive number of such institutions – **132 NGOs** of different level and status (i.e., all-national, regional, city etc.) At the same time, many times smaller **Jewish community (103.6 thousand)** established **288 NGOs**, i.e., more then twice as much as Russians. Other figures providing the absolute numbers of NGOs established by relevant minorities (dealt with by this study) are shown in Table 3.

Table 3

Numbers of NGOs established by relevant minorities¹⁴⁸

<i>Minority</i>	<i>Number in thousands</i>	<i>Number of NGOs</i>
Roma	47.6	117
Hungarians	156.6	48
Crimean Tatars	248.2	28
Romanians	151.1	16
Moldovans	258.6	14

Currently, political parties also pay special attention to the interethnic relations. Besides that, a number of the independent think-tanks start acting like the influential mediators, initiating, in particular, research projects and contributing to the political thought in the field of ethnic relations. Moreover, think-tanks' research and recommendations are usually more balanced in comparison to those produced by ethnic minorities' organisations, whereas their expertise often reveals more modern and "European" (rather than "post-Soviet") approach towards sensitive issues of inter-ethnic relations and minority rights than that developed by the counterparts from the official state agencies.

Acting as the mediators, the non-ethnic NGOs, while facing methodologically complicated task, display high level of creativity and use people's diplomacy, modern techniques of mediation and conflict resolution and a lot of patience for the sake of a successful interethnic dialogue. Therefore, "non-ethnic" NGOs' input into the interethnic peace in Ukraine is no less important than that of ethnic movements.

Among the NGOs involved in ethnic issues and interethnic relations, the multiethnic Congress of National Communities of Ukraine, non-ethnic Ukrainian Centre for Independent Political Research, Europe XXI Foundation, Pylyp Orlyk Institute for Democracy etc can be named.

A special attention should be paid to of the Congress of National Communities of Ukraine activities, which emerged though initiatives "from below" in 2001 as a result of the negotiations between the leaders of minority organisations lasted for about two years. Currently, the Congress major activities are researches, publications, workshops, seminars, legislation drafting as well as organising, jointly with the ethnic minorities' organisations, the summer schools focused on the interethnic tolerance, mutual understanding and solidarity, and NGOs cooperation. Among its

¹⁴⁸ Ibid.

successful activities one can also find the preparation of local and national TV programmes and the publication of the “Forum of Nations” weekly newspaper.

Among the most successful and important projects accomplished in the studied field has been the project on “Conceptual Principles of National Ethnic Policy: Practice and Theory” (2004-2005), implemented by the Ukrainian Centre for Independent Political Research with the support of the Parliamentary Committee on Human Rights, National Minorities and Interethnic Relations and funded by Canadian Bureau for International Education, Canadian International Development Agency.

The main objective of the project was drafting the Concept of Ethnonational Politics of Ukraine in order to provide a basis for the respective legislation and remove the controversies and discrepancies within the legislation in force. Within the framework of the project, a number of provisions and definitions, clarifying and concretising certain articles of the constitution, have been elaborated national and foreign experts, civil society leaders, political, governmental and academic communities’ representatives. During the project implementation, a number of seminars and the concluding workshop took place, as well as the experts’ polls, focus groups and regional presentations; in accordance with the project agenda, electronic bulletin “Ethnopolitics bulletin” was published, interethnic relations in Ukraine as well as the local authorities’ activities were analysed.

A positive trend in the activities of civil society, involved in issues of minority rights and interethnic relations, is its further vigorous expansion. Due to the growing activity of human rights organisations (initially rooted in dissident movements) and their willingness to promote further development of civil society, successful initiatives of the newly arrived, younger generation of civil society actors have appeared, – in particular, the formation of different kind of formal or informal networks. Since the middle 90s this networking was often focused on the human rights and minorities’ rights protection and included human rights NGOs and those organisations established by the minorities themselves, involving also think-tanks and media representatives. The best example of such a successful informal networking is the so-called “Maidan” Alliance” that emerged in 2005 following the Orange Revolution, whose numerous volunteers and activists pay much attention to human and minority rights observance, fighting racial and ethnic discrimination, different forms of xenophobia – including both anti-Semitism and Islamophobia, and other negative trends spreading, regrettably, not only in Ukraine but in many European countries and in neighbouring Russia.

Through such kind of networking, effective combination of the endeavours of human rights NGOs with those representing the needs and interests of ethnic and religious minorities, would be especially advantageous.

Ethnic minorities’ organisations, as well as think-tanks, develop also international cooperation, predominantly with the American and European partners. The most important assistance in this regard has been provided by the official international (intergovernmental) and national organisations and institutions through the joint programmes developed and/or supported by the UN, EU, Council of Europe, OSCE, and NATO. Such countries as Poland, UK, USA (USAID, NED), Canada (Canadian Bureau for International Education, Canadian International Development Agency), Sweden, the Netherlands are especially active in developing partnerships and supporting Ukraine’s civil society activities. Remarkable contributions have also been made by the programmes administered and sponsored by the independent private foundations – first and foremost, George Soros Foundation (its Ukrainian branch is named International Renaissance Foundation).

The important point is also that through the implementation of various projects related to ethnic and minority issues, a number of Ukrainian organisations have been able to cooperate with their counterparts from the ethnic minorities' kin-states on the civil society level, thus establishing new horizontal links.

Perhaps, no less important recent development is the emergence and vigorous spreading of local charitable activities covering, *inter alia*, the spheres of culture, education, health care etc. The famous traditions of philanthropy in Ukraine are nowadays supported by the richest people (the so-called "oligarchs") of Ukraine. Among them, Victor Pinchuk, Rinat Akhmetov, Serhiy Taruta, Oleksandr Feldman, Olena Franchuk have been named as the most generous philanthropists of 2007.¹⁴⁹ The interesting fact is that the three of top-5 philanthropists belong to national minorities themselves. (O.Feldman and V.Pinchuk are both of Jewish ethnic origin, while R.Akhmetov is ethnic Tatar belonging to Muslim religious community). However, most of the projects financed by them are of nation-wide scale and are not limited (although include) by the support provided to the respective ethnic communities.

On the whole, the representatives of the Ukrainian civil society act like interethnic peace and solidarity providers and mediators who contribute to the tolerance and loyalty-based conflict prevention. Whenever interethnic tensions arise and wide public debates on the problematic issues go on, civil society leaders and experts are actively involved, shaping and influencing public opinion. Such wide involvement of civil society and concerted efforts of its different actors (human rights activists, minority NGOs leaders, independent experts including conflictologists, media representatives etc.) into solving delicate and sometimes painful issues of interethnic relations usually bring quite positive results, although often not appreciated enough by the governmental officials.

III.4.2 Regional Dimension

For the purposes of a given project, the two regions of Ukraine, namely, Bukovyna (Chernivtsi oblast) and Transcarpathia (Zakarpats'ka oblast) with their especially rich mixture of different ethnic and religious groups and high proportion of national minorities singled out by the project, deserve a special emphasis.

A number of non-governmental organizations in Chernivtsi region have set up as their objectives preservation and protection of ethnic traditions, language and culture. Chernivtsi Legal Department registered 25 ethnic and cultural organizations (the majority of the registered organisations are Romanian – 16), although only 10-12 of them are currently functioning. Regrettably, some of the mentioned organisations perform their activities only on the occasion of national or cultural holidays.

Eminescu Regional Organization of Romanian Culture (head – Arkadiy Opayets) is a founder of the regional newspaper *Plai Romenesc* and bilingual publication *Dzvin Bukovyny*. It has 10 000 members and is financed by membership fees, donations, sponsors. The organization conducts a number of celebrations of traditional Romanian Holidays. "Eminesciana", spring festival "Merzishor", language festival "Limba noastre chya Romyne" (Our mother tongue is Romanian), Children's festival of Christmas traditions and carols "Florile Dalbe".

The organisation actively participated in erecting a monument to M. Eminescu, creating a memorial board to Chiprian Porumbescu, a famous Romanian composer. Folklore ensembles of

¹⁴⁹ Novynar weekly, December 15-22, 2007 (in Ukrainian)

the organisation participate in annual International Folklore Festival “Bukovynski zustrichi”, other celebrations and festivals in Romania and Ukraine.

Regional Organization “Human Rights Protection League” (head Arkadiy Opayets) is one of the founders of the bilingual newspaper “Dzvin Bukovyny”. It holds conferences and seminars on the protection of human and minority rights.

Regional Society “Golgotha” of the Romanian victims of Stalin repressions (head – Petro Grior, vice director of the Regional State Archive) is the founder of the newspaper “Glasul Adveruluj”. It has 2000 members and is financed by membership fees. The society regularly holds commemoration meetings and scholarly conferences dedicated to victims of the totalitarian regime in Herza, Hlyboka, Novoselitsa, Storozhynets districts and in Chernivtsi. Regional society has a city branch which is headed by Oktavian Bilovaru.

Regional organisation Cultural and Sports Club “Dragosh Vode” has conducted sports events and engages young people to its membership.

Regional medical society “Isidor Bodja” (head Ivan Broaske) is financed by the membership fees and sponsors. In collaboration with doctors from Romania and Moldova, the organisation holds international scientific conferences on psychiatric diseases. Memorial board to Isidor Bodya, the founder of paediatrician school in Bukovyna; Oktavian Georgianu, the founder and the first head physician of the psychiatric hospital; Konstantin Tsurkan, a founder of the birthing centre in Chernivtsi are also installed with the contribution of this society.

Regional organisation of Romanian writers in Chernivtsi (head – Illya Zegrya, editor of the Romanian language radio programs at Chernivtsi Regional TV and radio-company) has its own journal “Septenitron Literar”.

Regional organisation “The League of Romanian Youth in Chernivtsi Region – “Zhunimya” (head Vitaliye Zygyra) issues the newspaper “Zhunimya”. It has organised international courses of Romanian Culture and Civilisation in Chernivtsi Region, children’s painting competitions, young poets’ competitions etc. Starting in 2006, the organisation holds European Youth Days in Chernivtsi in the framework of Euroregion “Upper Prut” activities.

Chernivtsi regional branch of the Interregional Association “Romanian Community of Ukraine” and Chernivtsi Regional Fund of Culture ‘Romanian Language House’ (head - Vasyl Terytsyanu, editor of the Romanian language publication “Arkashurul”) hold competitions of young performers of Romanian songs, organises exhibitions of Romanian books and Congresses of Romanian Intellectuals in Chernivtsi.

A number of NGOs work under the umbrella of the following organisations: Trikolor (head Georgiy Pavel), cultural society “Arboroasa” (head Dimitry Kovalchuk). The mentioned organisations are conducting research on the outstanding figures of Romanian origin, and take care of war burials.

All-Ukrainian Non Governmental Organization “Christian Democratic Alliance of Romanians of Ukraine” (headed by Konstyantyn Olaru) has been financed by the membership fees. However, this organisation has no substantial influence on the ethno-political situation in the region, because it fails to obtain enough support from other Romanian ethnic and cultural societies. During recent years, the organisation almost ceased its activities.

On the other hand, another all-Ukrainian NGO – Aaron Pumnul All-Ukrainian scientific and educational association (head – Aurel Konstatynovych, Ph.D, professor at the Department of Physics, Chernivtsi National University) continues to function and is quite active, participating also in the activities of the other Romanian ethnic and cultural organisations.

There are 28 printed periodicals which aim to satisfy ethnic minorities' needs for information. The biggest part of publications (20) is in Romanian Language, among which there are some bilingual and trilingual (Ukrainian-Romanian, Ukrainian-Russia-Romanian). Periodicals are financed from different sources: 2 are financed by state budget, 4 – by local government and 6 – via NGOs and private donations.

Chernivtsi Regional TV and Radio Station has Romanian Board, which has 426 hours of TV air time annually and 230 hours of radio air time. Moreover, a privately owned TV and Radio Company TVA has 50 hours of Romanian language programs annually.

Monthly airtime for programs in ethnic minority languages at Chernivtsi Regional TV and Radio Station are the following: 35.6% in Romanian language, 0.2% in Polish language, 0.3% – in Yiddish.

Because Mass Media plays an important role in creating ethnic tolerance, it is important to analyse the way ethnic minority issues were elucidated in the media. The authors have been monitoring TV news on local channels in 2004, and regional and district newspapers in November-December 2006. The information below reflects, to some extent, the comparative “visibility” of different minorities according to coverage by local mass media.

Ethnic problems are fairly seldom present on TV, because they lack clear “action” or “sensational” components. In February-November 2004, local channel news had 60 episodes which were more or less related to interethnic relations. Their total airtime was 7.790 seconds. Chernivtsi Regional TV and Radio Station had 25 episodes (3705s), TV “Chernivtsi” -16 episodes (2175s), TVA 19 episodes (1910s).

The content of these episodes was various. 13 episodes (1555s) were dedicated to the life of Jewish community, which constituted 19.9% of all the time dedicated to interethnic issues. These episodes were distributed among the channels: Chernivtsi Regional TV and Radio Station -4(405s), TVA 6 (685s), TV “Chernivtsi” -3 (465s). Mostly, the programs were dedicated to religious and national holidays, activities of Jewish organizations, Holocaust tragedy.

Media dedicated substantial airtime to elucidation of life of the Romanian community and activities of the Romanian Consulate General in Ukraine. There were 15 related episodes (1765s), which formed 22.66 %. Chernivtsi Regional TV and Radio Station had 6 episodes (930s), TVA – 6 episodes (430s) and TV “Chernivtsi” 3 episodes (405s). National festivals, cultural aspects of Romanian Consulate General activities, consequence of introduction visa regime between Romania and Ukraine formed the content of the mentioned episodes. The majority of the episodes were neutral, though there were some cases – in February and March 2004 when the problem of restitution of property to expatriates of Russian times was raised, including some of the Romanian cultural societies. Some of the channels gave ironic commentaries to such demands and claimed that such questions cannot be solved at the city level. It should also be mentioned that the media elucidated the position of the General Consul in Chernivtsi on this problem.

It was a surprising finding that despite the fact that the Chernivtsi Region borders with Moldova, there were few episodes depicting Ukraine-Moldova relations. During 10 month, there were just

two episodes (210s) with 1 episode on Chernivtsi Regional TV and Radio Station and 1 on TVA (170s).

The case study below reflects to some extent the level of minorities' civil society's activities with regards to the two minorities relevant to our study, namely, Romanians and Moldovans.

Comparative analysis of the representation of these two minorities in the local governmental bodies in Bukovyna (as is shown by Table 4) reveals rather disproportional picture. It turned out that the Romanian minority has 16 deputies in the Regional Council that amounts to 15% of the Council's composition, whereas its share in the total population of the region is only 12.5%. Therefore, it can be considered as overrepresented rather than underrepresented – in contrast to the Moldovan minority, which has only two deputies, while constituting 7.3% of the oblasts' population.

Table 4

Romanians and Moldovans representation in the Regional Council of the Chernivtsi oblast

Nationality	% of total population of the region	% of the total number of deputies in the Council
Romanians	12.5	15
Moldovans	7.3	2

Romanian minority has also a remarkable presence in local state administrations, especially in the regions of Romanian compact communities. For example, in Herza District Administration, three deputy-heads, and 70% of all the employees of the Administration are of Romanian ethnic origin. 22% of all of the employees in Storozhynets District Administration and one deputy head of this Administration are Romanians. This number is 10% and one, respectively in Glyboka Administration. (See more in Table 5)

Table 5

Ethnic minority representation in District Administrations

Nationality	Glyboka District		Herza District		Novoselitsa District		Storozhynets District	
	Deputy Heads of Administration	% of the employees at the Administration	Deputy Heads of Administration	% of the employees at the Administration	Deputy Heads of Administration	% of the employees at the Administration	Deputy Heads of Administration	% of the employees at the Administration
Romanian	-	10	3	70	-	-	1	10
Moldovan	-	-	-	-	3	50	-	-

Turning now to the Transcarpathian region, the following table (Table 6) gives quantitative characteristics of the biggest ethnic groups.

Table 6

Ethnic composition of Transcarpathia

<i>Minority</i>	<i>Number in thousands</i>	<i>%</i>
Ukrainians	1010.1	80,5
Hungarians	151.5	12,5
Romanians	32.1	2,6

Russians	31.1	2,5
Roma	14.0	1,1
Slovaks	5.6	0,5
Germans	3.5	0,3

Hungarians form compact communities in Beregovskiy district – 54.000, Vynogradiv district – 30.900, Uzhgorod district - 32.800, Mukachevo district – 19.900, Tiachiv district -5.000, Hust district – 5.500. Romanian community is concentrated in 9 settlements of Tiachiv district and 4 settlements in Rakhiv district.

Interests of Hungarian and Romanian minorities in the region are represented by a number of non-governmental organisations. According to statistics of the Law Department of the Transcarpathian region, there were 490 NGOs registered as of January 1, 2006. 53 of them are national and cultural societies, among which there are 12 Hungarian and 3 Romanian. The most active organisations are the Association of Hungarian Journalists, Hungarian Librarians Society, Society of Hungarian Entrepreneurs, and Society of Hungarian Intellectuals. They were established in the 1990s and almost immediately united into the Association of Hungarian Culture of Transcarpathia, which was the dominant Hungarian minority organisation for a long time.

Before the parliamentary elections in 2006, the Association of Hungarian Culture in Transcarpathia was reformed into the Party of Hungarians of Ukraine and won 5 places in the Regional Council and 66 in district and city councils. The leader of the Democratic Party of Hungarians of Ukraine became the Mayor of Beregovo.

Romanian minority in the region is less organised compared to Hungarians. The most influential organisation of Romanians in Transcarpathia is Kozhbuk Cultural Society of Romanians in Transcarpathia, Regional Association “Dacia” and others.

In district and city councils, there are 147 Hungarians (12.8%), 15 Romanians (1.3%), 10 Russians (0.9%), 3 Romas (0.3%) as well as the other minorities represented.

In 1999 a Centre for Minority Cultures was opened in Uzhhorod which was the first one in Ukraine of its kind. It provides venues for the conferences, seminars and other events held by the minority organisations. Existence of the Minority Coordination Board with members – heads of different minority organisations – can be considered as a positive factor, since it serves as a platform for discussions and search for consensus, paving the way to common ground.

PART IV

Concluding Remarks

Within the framework of our pilot project, which was intended to serve as a politically neutral, non-partisan forum for experts from the four countries of the region, we made the first attempt to study interethnic relations within the respective countries applying similar criteria and guidelines and trying to develop a common approach towards the protection of national/ethnic minorities, based on shared European values and international standards. Those security concerns relating to ethnic issues – either justified or imagined – have also been taken into consideration.

As a result of the conducted research, each expert group presented their views on what can be perceived as domestic “good practices”, worth attention and deserving further spreading of information about them, if not immediate direct application in neighbouring countries. Certain failures and shortcomings, which should be taken into account by national policy-makers and civil societies to be overcome by joint efforts, have also been identified.

One of the inevitable drawbacks of the project turned out to be a rather imbalanced approach towards the development of recommendations and articulating the good practices and shortcomings. A lack of common ground in this respect between the four expert groups resulted in certain disproportions between the aforementioned elements of Part 4 of the given study. For example, the Moldovan expert group has developed very detailed recommendations – addressing, *inter alia*, different international bodies and organisations (but not especially focusing on the item of “good practices”) – whereas the three other teams limited their endeavours by formulating only those measures that should be implemented at the respective national level. The Hungarian and, to some extent, Ukrainian contribution may look rather laconic and short-spoken compared to the contributions of others, whereas the Romanian group provided a detailed description of the concrete examples of good practices while having paid less attention to identifying the shortcomings (only two of them are indicated) and preparing the recommendations. However, the input below, presenting the views of the experts from Hungary, Moldova, Romania and Ukraine mostly in their original form (though supplemented sometimes by the editors’ contributions), seems worth publicising – at least from the perspective of comparative ethnic studies.

IV.1 Hungary

IV.1.1 Good Practices¹⁵⁰

- definition and delimitation of minorities which can help the implementation process despite their deficiencies; certain mechanism to acknowledge “new” minorities;
- an ethnically quite neutral constitution: no reference to Hungarian nation, no official language is determined, but minorities are said to be part of the state;

¹⁵⁰ In addition to the examples of good practices provided by the Hungarian experts, the editors would like to emphasise also the existence of well developed institutional system dealing with national and ethnic minorities. According to the data provided by the Budapest-based International Centre for Democratic Transformation (Minorities in the Republic of Hungary, Fact Sheet, 2007), it consists of the Hungarian Parliament’s Standing Committee for Human Rights, Minority and Religious Affairs; Ombudsperson responsible specifically for the protection of national and ethnic minority rights; Office for National and Ethnic Minorities (an independent state administrative body with national sphere of authority); Roma Political State Secretariat in the Prime Minister’s Office; Council for Roma Issues (consultative body in the Prime Minister’s Office); two ministerial commissioners (for education and economy), and a ministerial chief advisor (issues of culture).

- recognition of both individual and collective minority rights, not only basic human rights (antidiscrimination, etc.), in different spheres of social life;
- recognition of the right to choose identity;
- establishment of a personal-based minority cultural autonomy, based on a system of Minorities Self-Governments, which are:
 - o elected at the territorial and national levels through proportionate voting system (in order to allow them to obtain mandates within pluralist communities and to make Minority Self-Governments functioning as special “minority parliaments”),
 - o organised at the local, territorial and national levels, thus making it possible for minorities’ representatives to take part in decision-making processes on different levels;
 - o enriched by the extended rights of participation, expression of opinions, consultation and decision about issues related to minorities’ interests;
 - o focused on the establishment, maintenance and takeover of mainly cultural and educational institutions, which is quite important for effective and well-functioning cultural autonomy.

IV.1.2 Shortcomings

- Notwithstanding the Constitution provisions, the Parliament lacks minority representation and the same situation is true for the municipal governments (since 2006);
- The system of autonomy lacks the territorial element which existed until 2006;
- Minority register lists are managed by notaries and not by the minorities themselves (the model in Slovenia), and there is a significant lack of right of consideration concerning the person’s ethnic affiliation;
- Situation of Roma minority (discrimination, health, employment, housing, education, etc.).

IV.1.3 Recommendations:

- To foster cooperation among minorities;
- To establish an agency dealing with conciliation and cooperation issues;
- To make efforts aimed at wider usage of the minority languages in different spheres.

IV.2 Moldova

IV.2.1 Good practices/Positive developments¹⁵¹

- The problem of preserving the intercultural understanding and harmony, as well as social cohesion and stability of the Moldovan society, seems to be a priority for all the involved actors, belonging both to the authorities and the interested groups, thus creating a favourable environment for further harmonising of interethnic relations in the Republic of Moldova.
- Building on the Law on National Minorities of 2001, Moldova sought to improve and extend the relevant legal framework and made practical efforts to support national minorities in the fields of culture and education. Dialogue with persons belonging to national minorities continued and the Department for Interethnic Relations has played a particularly positive role in this context. National

¹⁵¹ Some of the positive developments presented below are to be found in the Resolution ResCMN(2005)8 on the implementation of the Framework Convention for the Protection of National Minorities by Moldova adopted by the Committee of Ministers on 7 December 2005 at the 950th meeting of the Ministers' Deputies (*Eds.*)

minorities were consulted and involved in the processes, particularly concerning completed or pending changes in the Moldovan legislation.

- New positive developments in the sphere of private electronic mass information consist of their contribution to state support for broadening the national minorities' access to the mass media and the use of their languages in TV and radio broadcasting.
- Efforts aimed at the promotion of multiculturalism in education at all levels and stimulation of cultural exchanges between different ethnic groups should also be appreciated. In particular, the Didactic Centre has developed special handbooks with a multinational collection of authors; these handbooks will be recommended to all the schools of Moldova.
- According to the legislation in force, none of the national minority organisations and/or associations can claim monopoly on the presentation of the interests of the whole national minority.¹⁵²
- Moldova has intensified its efforts for studying of the state language by national minorities, inclusively through the programmes having international support by consultancy and financial assistance.

IV.2.2 Shortcomings¹⁵³

- The legal framework on political parties has suffered from some alterations. In the last years, Moldovan legislation regarding political parties and socio-political organisations, as well as the electoral code and other laws on this matter, constituted the subject of the dialogue with the Council of Europe, through the legislative examinations. Although tight cooperation was established with the Council of Europe to adapt the legislation to European standards, none of the national minorities' issues are on the Moldovan parliament agenda.
- Since the Romanian education system does not educate (train) "Moldovans" (they are not recognised as such), there is no agreement which regulates the education of Moldovans in Romania.
- The legislation in force ensures free use and functioning of the Russian language, whereas the mother tongues of other minority groups have much more limited opportunities for their preservation and development.

IV.2.3 Recommendations

- *To the Council of Europe:*

¹⁵² Taking into consideration the problems of rivalry and struggle for a leading role between the minorities NGOs, usually observed in the three other countries, the editors decided to add this point as a good practice.

¹⁵³ Apart from the shortcomings revealed by the Moldovan expert group, serious concerns have recently aroused with respect to the observance of the rights of the religious minorities. Since the latter include all Muslim communities, apart from smaller Orthodox churches and many Protestant churches, this kind of discrimination may have more generalised negative effect. The said minorities fear that the new Religion Law that came into force on 17 August 2007 will be used to continue restrictions on their activity. (See F18News 3 August 2007, at http://www.forum18.org/Archive.php?article_id=1002). Recent (January 2008) expulsions of the four Romanian Orthodox Church priests have led to a number of protests within and outside Moldova. This incident may further complicate interstate relations with neighbouring Romania and in general, hamper the spreading of regional democracy and stability. See "MOLDOVA: Christmas expulsions of four Romanian Orthodox priests" by Felix Corley, Forum 18 News Service, 4 January 2008, at http://www.forum18.org/Archive.php?article_id=1067 (Eds).

- **To launch and promote** projects and programmes aimed at protecting minorities' rights, harmonising interethnic relations, preserving linguistic and cultural diversity and fostering intercultural dialogue;
- **To support** the creation of resource centres for NGOs dealing with protecting minorities' rights and improving interethnic relations;
- **To support** the monitoring process and preparation of shadow reports concerning the implementation of the Framework Convention for the Protection of National Minorities;
- **To promote** ratification and implementation by Moldova of the European Charter on Regional or Minority Languages;

•To the OSCE:

- **To promote and support** in-country and trans-border cooperation projects, including the Transnistria region, aimed to promote interethnic and intercultural dialogue as a tool of confidence-building and conflict prevention;

•To international donor organisations:

- **To launch and promote** projects and programmes aimed at protecting minorities' rights, harmonising interethnic relations, preserving linguistic and cultural diversity and fostering intercultural dialogue;

• To the Parliament of the Republic of Moldova:

In the legislative sphere:

- **To ratify** the European Charter on Regional or Minority Languages;
- **To develop** mechanisms for implementation of the Law on the Rights of National Minorities and other legal acts referring to national minorities' rights protection and interethnic relations harmonisation in Moldova;
- **To develop and undertake** specific legislative and administrative measures for the ensuring of participation of national minority representatives in the decision-making process and public administration at all levels;
- **To restore** the Parliamentary Commission dealing with the protection of the rights of national minorities;
- **To provide** in the Law on Local Governments for the expansion of powers of the regional and local authorities in the introduction of the ethnic and cultural component in education and organisation of cultural activities;
- **To provide** in the Law on Local Governments and the Law on Administrative and Territorial Division for obligatory consultations with representatives of national minorities in the making of decisions related to the structure of administrative bodies as well as changes to the administrative and territorial borders;
- **To adopt** all legal acts as well as changes and additions to the existing legislation on education and culture affecting the interests and rights of national minorities, taking into account the results of obligatory preliminary consultations held with the representatives of national minorities and local public authorities;
- **To make** amendments to the Law on Political Parties with the purpose of withdrawing the requirement saying that for a party to be registered it must be represented in half of the regions;
- **To provide** in the Law on Nongovernmental Organizations and in the Law on Elections the opportunity for ethnic and cultural associations to participate in local elections;

- *To the Government of the Republic of Moldova:*

In the field of public administration:

- **To organise** Steering Committees of nongovernmental ethnic and cultural associations registered by the regional or local authorities and support their cooperation and partnerships with local and regional authorities;
- **To study** the ethno-cultural needs of national minorities and to take measures in order to meet them, based on international standards and internal legislation;
- **To hold** consultations with national minorities' communities on a constant basis at all levels.

In the field of education:

- **To develop** a Concept of Education for National Minorities in the Republic of Moldova;
- **To adopt** a State Programme for the development of education for national minorities;
- **To improve the teaching of the state language in minorities' schools** by using it as one of the languages of instruction in multilingual secondary schools and applying bilingual/multilingual teaching methods;
- **To restore the Board on National Minorities Education** within the Ministry of Education and Youth of Moldova;
- With the purpose of providing the opportunity for multilingual and multicultural education in accordance with the Law on education, it is necessary:
 1. **To promote** national minority languages as a means of instruction in preschool institutions and elementary schools and also as one of the languages of instruction in multilingual secondary schools;
 2. **To introduce** the principle of intercultural education in the general education system in the Republic of Moldova;
 3. **To promote** the requirement for a multicultural approach as one of the major principles in the development of curricula and programmes for all types of educational institutions;
 4. **To improve** public awareness on the educational rights of the persons belonging to national minorities;
 5. **To organise**, in accordance with general practice, extension training courses for the teachers of national minority languages and to create a system for the ongoing education of specialists teaching in the languages of national minorities;
 6. **To render support** for the organisation of courses to study the native languages, history and culture of the respective nation, as well as for linguistic practical training for the teachers and students of pedagogical universities in their kin-states;
 7. **To create** a Board dealing with education of/in minority languages within the Ministry of Education and Youth;
 8. **To introduce** a position of regional inspector on the issues of teaching of national minority languages in the list of staff of regional/city educational offices;
 9. **To develop and publish** a textbooks for primary and high schools on the subject of "History, Culture and Traditions of the Nation" as well as textbooks on native languages and literature for lyceums.

In the field of culture and mass media:

- **To adopt** a State Programme of Culture Development and Intercultural Dialogue promotion, which would ensure measures necessary for the preservation of the existing multicultural space on the territory of the Republic of Moldova, including preservation and development of minority cultures;
- **To support** publication of national newspapers in minority languages;
- **To ensure** daily news programmes within the framework of the television and radio programmes of "News" in the Ukrainian, Gagauz and Bulgarian languages;
- **To rehabilitate and support** the functioning of rural cultural centres, libraries, museums, book shops and their participation in the propagation of the world culture as well as the multinational culture of Moldova, including the cultures of national minorities.

- **Special measures to be taken for the improvement of the Roma minority situation:**

- **To promote** the creation of Roma nongovernmental associations as well as training of their leaders at regional and local levels;
- **To develop** the capacity of Roma communities and ensure positions for the Roma representatives in public bodies at local and regional levels;
- **To hold** regular consultations with the Roma population in places of their compact residence;
- **To create** an office of an expert on Roma issues in the Interethnic Relations Bureau with a representative of the Roma nationality holding it;
- **To take into account** the Roma population stance when carrying out administrative and territorial reforms as well as creating mayors' offices on the territories of the villages with compact Roma population;
- **To develop** a plan for the economic development of rural Roma communities. To involve in the development of the plan representatives of the Roma population, local authorities as well as international experts. To strictly monitor execution of the plan;
- **To develop and adopt** a State Plan of Actions for the implementation of Government Resolution # 131 from 16.02.2001 «On Measures for Roma Population Support in the Republic of Moldova». To involve Roma communities and associations in its elaboration and implementation;
- **To take into account** the historically existing economic and social backwardness of the Roma population when planning and allocating funds to meet their needs. Decisions on the allocation of budgetary funds for the Roma communities' needs should be made with the obligatory participation of the Roma representatives;
- **To provide for** additional means for the creation of everyday life conditions in the places with compact Roma minority, such as water and electricity supply, telecommunication, health services, etc.;
- **To provide for** allocation of small grants and credits for the resolution of social and cultural problems of the Roma communities;
- **To organise** vocational training courses and vocational counselling for the Roma minority representatives in the places with compact Roma population;

- **To organise and ensure** the study of the Roma language in the kindergartens and schools for Roma children; to ensure training of language teachers as well as didactic and methodological materials in the Roma language;
- **To ensure** the transportation of children from the villages with compact Roma population to schools located outside these villages;
- **To include** in the school history curriculum materials on the history and culture of the Roma population in Moldova. In the places with compact Roma population, the history and culture of the given minority should be taught;
- **To undertake** research and to publish works on the history of the Roma population in Moldova and its current situation.

- *To Moldovan NGOs:*

- **To continue to undertake and step up** measures to raise awareness of human rights, national minorities and the special characteristics of their culture and traditions, particularly the Roma. These measures should be addressed to communities, members of the police forces and the other professions concerned, such as the judiciary, the press, etc.;
- **To develop and implement** partnership projects promoting national minorities' rights protection, interethnic tolerance, social integration of ethnic minorities, intercultural dialogue, etc., thus enhancing unity through diversity;
- **To promote** trans-border cooperation aimed at strengthening intercultural dialogue and prevention of interethnic conflicts.

IV.3 ROMANIA

IV.3.1 Good Practices

1. The Community Development Model

One of the major endeavours currently targeted by major international organisations is poverty reduction in the developing countries. As national governments do not seem to cope with all social and economic pressures, a new approach has become established. It aims at reducing poverty pockets present in many Central and Eastern European countries, achieving sustainable development by making maximum use of local resources and not appealing to the state budget. In other words, it aims to bring about development by easing the state burden at the same time.

The main change is at the level of conceptualising development strategies: it refers to the fact that poor groups are not conceived anymore as targets of institutional efforts to improve their condition, but as resources and instruments in the process of creating welfare.

Subsequently, starting in 1997, the community development model was embraced with success by a significant number of NGOs in Romania in an effort to overcome the various problems identified in the rural communities in Romania, such as: low levels of civic participation in community life; weak presence of civil society; lack of interethnic cooperation between members of the community; inefficient use of local human and material resources.

The community development process has been used as a learning process in which the community members started to organise and assume responsibilities in identifying, allocating and developing resources in order to make them useful for the community. Most frequently the working instrument has been the community facilitation process, in which the community facilitators:

- evaluate the community by “door to door” interviews with community members from each ethnic group and with representatives of public authorities/institutions;
- identify the leadership potential of formal and informal community leaders from each ethnic group;
- support the creation of an interethnic initiative group;
- transfer knowledge to and support the development of leadership abilities among community leaders;
- assist the interethnic initiative group in the participative evaluations of the community’s needs and resources, in the mobilisation/organisation of the community: assessing main issues, finding ways of solving them and elaborating local action plans;
- support the initiative group in stimulating civic participation amongst members of all ethnic groups in the local community in the implementation of local action plans
- build partnerships with different local stakeholders;
- ensure the transparency of the process towards the entire community;
- evaluate the training needs for strengthening the capacity of community leaders to efficiently contribute to the development of the community in the long run;
- bring information regarding development opportunities and also encourage the community leaders to find them;
- support the process by legally registering local (interethnic) NGOs (if this may be the case).

It is important to decrease the involvement of the facilitator while the community facilitation process advances in order to avoid the initiative group’s dependence on the facilitator.

In recent years, this model has been applied in the implementation of the National Strategy for the Improvement of the Roma Situation – the Public Administration, Community Development, Communication and Civic Participation components.

2. The Health Mediators Model

The first projects addressing the improvement of the Roma health situation, after 1990, have been initiated by non-governmental organisations such as Open Society Foundation Romania, Romani CRISS etc. In 1993 Romani CRISS initiated a series of programmes for improving the Roma health situation and facilitating Roma access to health services. An important outcome of these projects has been the training of the Roma health mediators. The partnership promoted by the Romani CRISS and the Ministry of Health facilitated the implementation and development of the health mediators programme, as well as cooperation between the Roma communities and the local public health institutions. The Ministry of Health issued the *Ordinance 619/2002* regarding the approval of the health mediator occupation and the methodology for functioning and financing this activity. The health mediators facilitate communication between the Roma communities and the health institutions’ representatives, contributing to the increase in the effectiveness of public health interventions. The role of the health mediator is to:

- Identify and make an inventory of the health situation of members of the Roma community;
- Periodically visit the Roma community to monitor the health situation;
- Contribute to the health education of the Roma community members;
- Improve the health situation of the Roma by facilitating the patient – physician relationship;
- Improve the efficiency of preventive and curative medicine amongst Roma;
- Improve the access to health services of Roma;
- Collaborate with family physicians that have on their lists Roma families.

- Strengthen the relationship between the Roma community and local authorities in order to contribute to the solving of legal and social problems identified in the community.

At county level, the health mediators are coordinated by a person from the Public Health Authority.

As a result of the lobby of Romani CRISS Foundation at the Labour and Social Solidarity Ministry, the health mediators' occupation is included in COR (Classification of Occupations in Romania) being included in group 5139 - "*Workers in the benefit of society*", code 513902. Health mediators are recruited based on the recommendations of Roma communities' leaders, followed by the training and testing for accreditation.

Within a period of 2002 – 2005, Romani CRISS trained a total number of 395 health mediators, of which 288 are hired by the Public Health Directions in 38 counties in Romania. A recent evaluation made in December 2006 by the Centre for Health Public Services in 8 counties revealed that:

- the health mediators are the most important agents that facilitate the flux of information between the Roma communities and the Public Health institutions; their activity most often expands health related problems to social problems;
- the activity of health mediators increased the access of Roma families to health services (increased number of Roma registered with a family physician, increased rates of vaccinations and use of contraceptive methods, decreased numbers of abortions, etc).

Since there are no alternative mediation agents for Roma communities and because the monitoring, evaluation and feedback system from the county Public Health Agency' coordinators is "weak", Roma health mediators often take into account the pressure exerted over them by the Roma community and seem not to respond effectively to the needs of public (employer) institutions.

IV.3.2 Shortcomings

- In terms of minority communities' representation, government and participation, one of the greatest drawbacks is the lack of internal democracy, i.e. the possibility of members of national minorities to organise their representative bodies (organisations) according to their own needs. To illustrate this, the situation of Bulgarians and that of Roma can be brought up. In Romania, there are two Bulgarian communities, one in the south part of Romania, and one in the Western region and they differ religiously, culturally, etc. Both communities have their own organisation(s), yet only one can represent all the Bulgarians of Romania in the Parliament, hence receiving all the funding for the minority community's public life. The Roma provide another example. Although it can be argued that much of Roma's issues are similar in the very different communities nation-wide, however not all of them are illiterate, poor, lack official papers, etc. Their representation is again biased by the views of the majority, unable yet to cater to the interests of wealthy but at the same time, traditional Roma communities.
- A second shortcoming in the Romanian governance regarding minorities is the issue of the so-called "ethnobusiness", where a person mobilises electoral resources in the name of a national minority that doesn't *de facto* exist. The common examples are those of the Macedonian Slavs (virtually inexistent in Romania, yet represented in the Parliament)

and the Italians (whose feeble numbers are represented by a Deputy who has nothing to do with the community).

Both of these setbacks negatively affect minority communities in Romania. Infringing on internal democracy can lead to pseudo-authoritarian forms of internal governance, undesirable in the context of a democratic society. Some believe that a law on national minorities (a draft is now under harsh debate in Parliament and even members of the government parties are blocking it) could solve these issues by giving national minority communities more power in making decisions within their communities regarding the affairs of their communities.

IV.3.3 Recommendations¹⁵⁴

- To develop law enforcement system, since the existing gap between legislation and practice is rooted in the weakness of the rule of law;
- To increase awareness-raising measures among the public, politicians and the media regarding the importance of tolerance and respect for diversity and to ensure that educational curricula reflect, in an appropriate manner, the diversity of the Romanian society;
- To take effective measures to strengthen interethnic dialogue and mutual understanding in areas populated by persons with different ethnic, cultural and religious background, including those where persons belonging to the majority are in a minority position;
- To pursue and strengthen the initiatives taken in order to improve the situation of the Roma in the field of education and to develop the teaching of their language; pursue and monitor the measures taken to prevent and combat the isolation of Roma children within the educational system; pursue the efforts aimed at improving the situation of national minorities in the field of education and teaching of and in their languages;
- To spread the practice of affirmative action already applied by the number of Universities (quotas for minority students, especially for Roma);
- To increase efforts, which require also an increase of the general budget for education, to ensure the availability of sufficient and qualified teachers and textbooks for education in minority languages, in particular for numerically smaller minorities;
- To promote further the participation of persons belonging to national minorities in public affairs at central and local levels, in particular as regards the Roma and the numerically smaller minorities;
- To encourage pluralism within minorities and develop contacts with organisations which are not represented in the Council of National Minorities, in order to avoid unnecessary politicisation of minority organisations.

IV.4 Ukraine

¹⁵⁴ The Recommendations for Romania are mostly based on “Romania. Shadow Report: October 1999” (See more: http://www.minelres.lv/reports/romania/romania_NGO.htm) and on the Resolution CM/ResCMN(2007)8 on the implementation of the Framework Convention for the Protection of National Minorities by Romania (Adopted by the Committee of Ministers on 23 May 2007 at the 996th meeting of the Ministers' Deputies).

IV.4.1 Good Practices

- The establishment and activities of the bilateral intergovernmental Ukrainian-German, Ukrainian-Hungarian, Ukrainian-Romanian and Ukrainian-Slovak commissions on promoting the rights of national minorities, aimed at responding promptly to the most pressing problems. This practice highlights the state's interest in solving domestic interethnic problems by using international and regional instruments. A similar bilateral Ukrainian-Moldovan commission should be established as soon as possible.
- The emergence and vigorous spreading of local charitable activities covering, *inter alia*, the spheres of culture, education, health care, etc. Although most of the projects financed by Ukrainian philanthropists are implemented on a nationwide scale, some of them, at the local level, provide support for certain ethnic communities (including Jewish, Tatar, Roma, etc.). In this context, it should also be mentioned that state-funded expansion of broadcasting in the Crimean Tatar language has been well supplemented by private business endeavours.
- The appearance of the first signs of a genuine interethnic solidarity concerning both majority-minority and minority-minority relations. For example, 24 November 2007 – the tragic date for Ukrainians commemorating the *Holodomor* (artificially created famine) of 1932-33 – evoked many strong responses from Jewish, Muslim and other ethnic and religious communities, expressing their shared sorrow and grief.
- The growing success of interethnic “Camps of tolerance” attracting and engaging youth, in particular, schoolchildren, of different ethnic and religious backgrounds, and encouraging them to develop interest to and study of others’ culture, history, language, traditions, etc.
- Ukraine’s increased attention to the sensitive issue of interethnic tolerance and protection of vulnerable minorities has been expressed by establishing recently a special department of the Security Service of Ukraine aimed at counteracting xenophobia.

IV.4.2 Shortcomings

- Because of the lack of administrative culture and entrenched democratic tradition, interaction between civil society and state institutions (and in particular, cooperation between minority NGOs and state agencies) is limited.¹⁵⁵
- At the same time, a number of state institutions have established national minority associations, councils and other consultative bodies “from above”, whereas actually, those minority NGOs selected for this purpose are not eligible to speak on behalf of a whole respective community. (The only exception is the Mejlis of the Crimean Tatar people, whose members are elected by the Crimean Tatars – citizens of Ukraine – by a specially developed democratic procedure).
- Legislation dealing with interethnic relations and minority rights protection is outdated and insufficient. In particular, Ukraine has not yet developed and adopted a strategic vision of ethnonational policy; a comprehensive anti-discrimination law and legislative acts specifying certain constitutional provisions, are still lacking.

¹⁵⁵ Regrettably, even during this project’s implementation, the organisers experienced certain difficulties while trying to involve into the discussion the representatives of the specialized state agencies.

- The principle of “affirmative” or “positive” action as an element of state policy aimed at vulnerable minority groups, which is of vital importance for ensuring their effective equality, is at a very early stage of being accepted by both state and society actors, thus preventing and/or delaying its implementation through national and international programmes and projects.
- There are continued negative practices of referring to a person’s or even group’s ethnicity in criminal and administrative justice, also in media reporting.
- As in other countries – participants of the project – the main socio-economic, educational and cultural problems of the Roma population remain unresolved, whereas the special programmes intended to ameliorate their situation are usually underfinanced and/or not effectively implemented.

IV.4.3 Recommendations

In the field of legislation:

- To adopt new laws and/or amendments to existing legal acts in order to bring Ukrainian legislation in full compliance with the international and European conventions (in particular, the Council of Europe Framework Convention for the Protection of National Minorities), multilateral and bilateral treaties concerning national and other kinds of minorities;
- To adopt as soon as possible the draft laws “On the Concept of ethnonational policy”, “On restoration of the rights of people deported on the ground of their ethnic origin”, “On the status of the Crimean Tatar people” (the latter should take into account the recently adopted UN Declaration on the Rights of Indigenous Peoples);
- To develop and introduce amendments to the electoral legislation in order to guarantee the representation of ethnic minorities in local and regional self-government and the national legislature;
- To introduce into the legal space the terms and definitions of “affirmative/positive action”, “preferential treatment”, and “direct/indirect discrimination”.

In the area of the language policy:

- To update and amend the law “On Ratification of the European Charter for Regional or Minority Languages” (8002-IV, adopted on March 15, 2003) in compliance with the spirit and letter of the Charter and according to the Draft Programme of the new Ukrainian government “Ukrainian Breakthrough: for people, not for politicians”;
- To review the provisions pertaining to the use of the languages of national minorities in the law at issue, with a view to clarifying them and to ensuring that they are fully compatible with the principles contained in Article 9 of the Framework Convention for the Protection of National Minorities;¹⁵⁶
- To enforce the right to use a minority language other than Russian in relations with administrative authorities, since Article 5 of the Law on Languages provides that citizens

¹⁵⁶ See: Advisory Committee on the Framework Convention for the Protection of National Minorities: Opinion on Ukraine, Strasbourg, 1 March 2002, Paragraph 97.

have the right to address public bodies “in Ukrainian or another language of their work, in Russian or in a language acceptable to the parties” that implies limited guarantees for the persons speaking languages other than Russian.¹⁵⁷

- To make amendments to the Constitution of the Autonomous Republic of Crimea, providing equal official status to the three languages: Ukrainian, Russian, and Crimean Tatar.

In order to solve the problems of formerly deported people¹⁵⁸:

- To ensure the enforcement of the CIS countries’ multilateral “Agreement on the Questions Relating to the Restoration of the Rights of the Deported Persons, National Minorities and the Peoples”, signed on October 9th, 1992 in Bishkek, Kyrgyzstan;
- To develop and finance local programmes based on the national “Programme for the Resettlement of Deported Crimean Tatars and Those of Other Nationalities who Returned to Ukraine, Their Adaptation and Integration into Ukrainian Society, for the Period up to 2010”;
- To develop a clear and comprehensive public policy of restoration of the rights of the formerly deported Crimean Tatar people and national minorities;
- To develop a national register of formerly deported people;
- To develop and finance a national employment program for formerly deported people.

The accomplished study revealed a number of problems in the sphere of interethnic relations which are common for all participating parties, as well as noteworthy particularities highlighting national and regional specificities. The participants agreed upon the understanding of common problems that the respective states face as a result of persisting historical tensions, rooted in World Wars I and II and their consequences. These include the collapse of the great multinational empires and the subsequent redrawing of state borders, dividing once united ethnic entities and thus creating sizeable national minorities in borderlands, and the hard legacy of the totalitarian regimes that have affected all of Central and Eastern Europe.

Ambiguous societal attitude and ineffective state policies aimed at improving the situation of socially marginalised Roma minorities continue hindering democratic advancement and creation of a genuinely tolerant, minority-friendly environment in all of the four countries involved. Even in Hungary – the country with the least pronounced internal interethnic tensions – a number of Roma problems, especially school segregation, remain not yet fully resolved.¹⁵⁹ In this context, however, it should be noted that upon developing the state and international programmes focused on Roma issues, the specificity of Roma historical traditions, mentality, etc. – including the

¹⁵⁷ Ibid. Paragraph 51.

¹⁵⁸ Recommendations below are based on the proposals developed by the representatives of bodies of local self-government of the Autonomous Republic of Crimea within the framework of the current OSCE HCNM-supported project “Towards peaceful and tolerant society in Ukraine. Interethnic relations in the ARC: education and learning” (May 2007 – February 2008) conducted by the Ukrainian Centre for Independent Political Research in partnership with the Crimean NGO “Integration and Development Centre”.

¹⁵⁹ See the monitoring report “Equal Access to Quality Education for Roma in Hungary” prepared by the EU Monitoring and Advocacy Programme of the Open Society Institute in cooperation with the Change for Children Foundation, available online at http://www.eumap.org/pressinfo/press_releases/roma_ed/hungary/englishpr.pdf. See also “Segregation in schools is expensive and we will all have to pay for it” by Ivan Ivanov, European Roma Information Office, 20.06.2007. (Eds.)

sometimes negative attitude of Roma parents towards the education of their children – should be more thoroughly considered and taken into account.

Moreover, entering the EU proved not to be a “panacea” for settling painful Roma-related issues. The November 2007 scandal, following the murder of an Italian woman blamed on a Romanian Roma, and the resulting public indignation, sharp rise of anti-Roma sentiments, and even violence, incited a harsh response from the Italian government and ignited a wave of xenophobia in Italy, Romania and beyond. As member of the European Parliament Els de Groen from the Netherlands had stated, “The situation of the Roma in Europe is getting worse; the developments in Italy proved that to us. We have all seen that unchallenged xenophobic and racist hysteria can overcome common sense. The crime of one single person has fuelled an unprecedented media lynching. This moved us towards the restrictions of the fundamental rights of European Citizens based on popular racist and xenophobic hysteria”.¹⁶⁰

Underdeveloped and poorly regulated state-civil society relations involving minority NGOs, political speculations over minority-majority, minority-minority, and kin-minority/kin-state relations in many cases can also be named among the common problems faced by the participating countries.

The format of our quadrilateral research project has also allowed us to identify a number of issues that can be of practical use in some of the neighbouring countries. For example, the endeavours to enhance minority “visibility” and their participation in governing bodies, undertaken by the Republic of Hungary (developing and strengthening the system of “minority self-government”) and Romania (guaranteed representation in both national and local elective bodies) deserve rapt attention of the other two countries – participants of the project – where such mechanisms are still absent. However, it turned out that even the well-intended measures, aimed at stronger protection of national minorities and enhancing their role in political decision-making, may sometimes result in certain negative consequences – like the “ethno-businesses” referred to by both Romanian (see Part IV.3.2) and Hungarian (see Part III.1) experts. This experience should serve as a warning signal to Moldovan and Ukrainian legislators, calling them to be ready to foresee and timely counter such phenomena, while further developing their own national systems of minority protection. An important issue of potential help for counteracting the already traditional rivalry, often existing between the different NGOs established within one minority, can be found in the legislation of the Republic of Moldova strictly forbidding the monopolisation by anyone of minority NGOs or associations the right of representation and speaking on behalf of a whole community. Concerning Ukraine, its hard experience with ratification of the European Charter for Regional or Minority Languages might be taken into account by the legislators of Moldova and Romania – the countries which did not ratify it yet. Among Ukraine’s achievements, the most important one is, perhaps, the ability to solve peacefully, without the use of military force and violence, even the most critical conflicts as, for instance, the acute separatist crisis in Crimea that lasted from the end of 1980s till the mid 1990s. Recently, increased interethnic and inter-confessional tensions on the peninsula indicate, however, the existence of a number of still unresolved problems – first and foremost, the just and full restoration of the rights of formerly deported people, but also the state and society’s ability to counteract and curb the activities of a growing number of xenophobic radical organisations and movements, including those “exported” from outside Ukraine.

¹⁶⁰ For more details, see “Italy-Romania plea over migrants”, BBC, 11.11.2007, available at <http://news.bbc.co.uk/2/hi/europe/7084766.stm>; Wiesenthal Center calls on Romanian premier to sack minister, 11.11.2007, at <http://www.eubusiness.com/Romania/1194625922.35>; Europe still struggles to face up to reality, 11.11.2007, at <http://www.brisbanetimes.com.au/news/world/europe-still-struggles-to-face-up-to-reality/2007/11/09/1194329509963.html>. See also a joint Appeal of a number of Roma Civil Organisations and Roma rights activists at <http://www.romanetwork.org/protest2.htm>.

Appendices

Table # 1

HUNGARY:											
Persons belonging to certain national and ethnic minorities (1990, 2001) ¹⁶¹											
Minority	Native language		Change (%)	Nationality (ethnicity)		Change (%)	Belonging to cultural values, traditions	Language use among friends, in family	Estimation (th)		
	Number			Number						Number	
	1990	2001		1990	2001					2001	2001
Bulgarian	1 370	1 299	- 5.18	...	1 358		1 693	1 118	5.0		
Gypsy	48 072	48 685	1.28	142 683	190 046	33.19	129 259	53 323	450.0 – 600.0		
Greek	1 640	1 921	17.13	...	2 509		6 140	1 974	4.0 – 4.5		
Croatian	17 577	14 345	118.39	13 570	15 620	15.11	19 715	14 788	80.0 – 90.0		
Polish	3 788	2 580	- 31.89	...	2 962		3 983	2 659	10.0		
German	37 511	33 792	- 9.91	30 824	62 233	101.90	88 416	53 040	200.0 – 220.0		
Armenian	37	294	694.59	...	620		836	300	3.5 – 10.0		
Romanian	8 730	8 482	- 2.84	10 740	7 995	- 25.56	9 162	8 215	25.0		
Serb	2 953	3 388	14.73	2 905	3 816	31.36	5 279	4 186	5.0		
Slovak	12 745	11 817	- 7.28	10 459	17 693	69.17	26 631	18 057	100.0 – 110.0		
Slovene	2 627	3 187	21.32	1 930	3 040	57.51	3 442	3 119	5.0		
Ruthenian	674	1 113		...	1 098		1 292	1 068	6.0		
Ukrainian		4 885		...	5 070		4 779	4 519	5.0		
TOTAL	137 724	135 788	-1.41	213 111	314 060	47.37	300 627	166 366	898.5 – 109.6		

¹⁶¹ www.nepszamlalas2001.hu, Kormánybeszámoló a Magyar Köztársaság területén élő nemzeti és etnikai kisebbségek helyzetéről (2003) [Governmental report on the situation of national and ethnic minorities living in the territory of the Hungarian Republic (2003)]. In: MAYER Éva (ed.): *Kisebbségek Magyarországon 2002-2003* [Minorities in Hungary 2002-2003]. Budapest, Nemzeti és Etnikai Kisebbségi Hivatal [Office for National and Ethnic Minorities], 2004. Appendix 1. 11.

Methodology: it must be definitely emphasised that the latest 2001 census in Hungary brought some fundamental changes in comparison with the earlier ones. On one hand answers to the minority- and identity-related questions were voluntary and anonym, on the other hand three different answers could be supplied to each question.

Table # 2

ETHNIC COMPOSITION OF MOLDOVA ACCORDING TO 1989 CENSUSES		
	1989	
	Absolute number (thousand people)	% of the whole population
Moldovans	2 797.752	64.5
Ukrainians	598.588	13.8
Russians	563.888	13.0
Gagauzians	151.816	3.5
Bulgarians	86.752	2.0
Jews	65.064	1.5
Gypsies	17.350	0.4
Others	56.388	1.3
Total Population	4 337.598	100.0

Source: 1989 census, http://www.statistica.md/statistics/dat/748/ro/Populatia_1997_2004_ro.htm

Table # 3

MOLDOVA: ETHNIC COMPOSITION OF MOLDOVA ACCORDING TO 2004; 2005 CENSUSES							
#	Ethnic Group	R. Moldova	% Mold	Transnistrian region	% Tran	Total	%
1.	Moldovans	2 638 125	79.0	177 156	31.9	2 815 281	71.5
2.	Ukrainians	282 406	8.3	159 940	28.8	442 346	11.2
3.	Russians	201 218	5.9	168 270	30.3	369 488	9.4
4.	Gagauzians	147 500	4.4	11 107	2.0	158 607	4.0
6.	Bulgarians	65 662	1.9	11 107	2.0	76 769	1.9
7.	Others	48 421	1.4	27 767	5.0	76 188	1.9
8.	TOTAL	3 383 332	100.0	555 347	100.0	3 938 679	100.0

Source: 2004-2005 censuses.

Table # 4

PMR: Population, historically				
	1926 *	1936	1989	2005
Moldovans	30.3 %	41.8 %	39.9 %	31.9 %
Ukrainians	48.8 %	28.7 %	28.3 %	28.8 %
Russians	8.6 %	14.2 %	25.5 %	30.4 %
Jews	8.5 %	7.9 %	–	–
Other	3.8 %	7.4 %	6.4 %	8.9 %

* 1926: All M.A.S.S.R.

Sources: Vsesoyuznaya Perepis Naseleniya 1926 Goda (Moscow: Izdanie YsSU Soyuzo SSR, 1929), Vol. 13, Charles King: “The Moldovans”, and official PMR 2004 census results.

Table # 5

ROMANIA				
Ethnic community	Number and %		Main mother tongue	Main religion
	in 1930	in 2002		
Romanian	11 118 170 (77.85%)	19 399 597 (89.48%)	Romanian	Orthodox, Roman-Catholic, Greek-Catholic
Hungarian	1 423 459 (9.97%)	1 431 807 (6.60%)	Hungarian	Reformed, Roman-Catholic, Unitarian
Roma	242 656 (1.70%)	535 140 (2.47%)	Romanian, Romanes, Hungarian	Orthodox, Roman-Catholics, Reformed, Pentecostal, Greek-Catholic, Adventist
Ukrainian	45 875 (0.32%)	61 098 (0.28%)	Ukrainian, Romanian	Orthodox, Pentecostal, Old style Orthodox, Greek-Catholic
German	633 488 (4.44%)	59 764 (0.28%)	German, Romanian, Hungarian	Roman-Catholic, Lutheran, Orthodox, Reformed
Russian-Lipovan	50 725 (0.36%)	35 791 (0.17%)	Russian, Romanian	Old rite Christians, Orthodox, Old stile Orthodox
Turk	26 080 (0.18%)	32 098 (0.15%)	Turkish, Romanian	Muslim
Tatars	15 580 (0.11%)	23 935 (0.11%)	Tatar, Romanian	Muslim
Serb	50 310 (0.35%) (with Croatians)	22 561 (0.10%)	Serbian, Romanian	Orthodox, Old style Orthodox
Slovak	50 557 (0.36%) (with Czechs)	17 226 (0.08%)	Slovak, Romanian, Hungarian	Roman-Catholic, Lutheran
Bulgarian	66 348 (0.46%)	8 025 (0.04%)	Bulgarian, Romanian	Roman-Catholic, Orthodox
Croat	see Serbs	6 807 (0.03%)	Croatian, Romanian	Roman-Catholics
Greek	23 161 (0.16%)	6 472 (0.03%)	Greek, Romanian	Orthodox
Jew	451 892 (3.16%)	5 785 (0.03%)	Romanian, Hungarian, Yiddish, German	Israelite
Czech	see Slovaks	3 941 (0.02%)	Czech, Romanian, German	Roman-Catholic
Italian	No official data	3 288 (0.02%)	Italian, Romanian	Roman-Catholic, Orthodox
Armenians	12 157 (0.09%)	1 780 (0.01%)	Romanian, Armenian	Orthodox
Albanian	No official data	No official data	No official data	No official data
Ruthenian	No official data	No official data	No official data	No official data
Macedonian	No official data	No official data	No official data	No official data

Table # 6

ETHNIC COMPOSITION OF UKRAINE ACCORDING TO CENSUSES OF 1989 AND 2001					
	1989		2001		2001 in % Comparing to 1989
	Absolute number, thousand	percentage of the whole populations, %	Absolute number, thousand	percentage of the whole populations, %	
Total population	52 270.0	100	48 241.0	100	92.3
Ukrainians	37 429.0	72.7	37 542.0	77.8	100.3
Russians	11 354.0	22.1	8 334.0	17.3	73.4
Byelorussians	439.9	0.9	275.8	0.6	62.7
Moldovans	324.5	0.6	258.6	0.5	79.7
Crimean Tatars	46.8	0.1	248.2	0.5	x 5.3
Bulgarians	233.8	0.5	204.6	0.4	87.5
Hungarians	163.1	0.4	156.6	0.3	96.0
Romanians	134.8	0.3	151.0	0.3	112.0
Poles	219.0	0.4	144.1	0.3	65.8
Jews	486.4	0.9	103.6	0.2	21.3
Armenians	55.5	0.1	99.9	0.2	x 1.8
Greeks	98.5	0.2	91.5	0.2	92.9
Tatars	86.8	0.2	73.3	0.2	84.4
Romas	47.9	0.1	47.6	0.1	99.3
Azerbaijanis	37.0	0.1	45.2	0.1	122.2
Georgians	23.5	0.1	34.2	0.1	145.3
Germans	37.8	0.1	33.3	0.1	88.0
Gagauz	31.9	0.1	31.9	0.1	99.9
Other ethnic groups	211.1	0.4	177.1	0.4	83.9

In the population of Ukraine the Ukrainians prevail. Their quantity is about 37 542 thousand people, 77.8 % comparing to the total population. Since 1989 census, the number of the Ukrainians 0.3 % increased, and their quantity in comparison to total population is 5.1 % higher.

State Statistics Committee of Ukraine:
<http://www.ukrcensus.gov.ua>

Table # 7

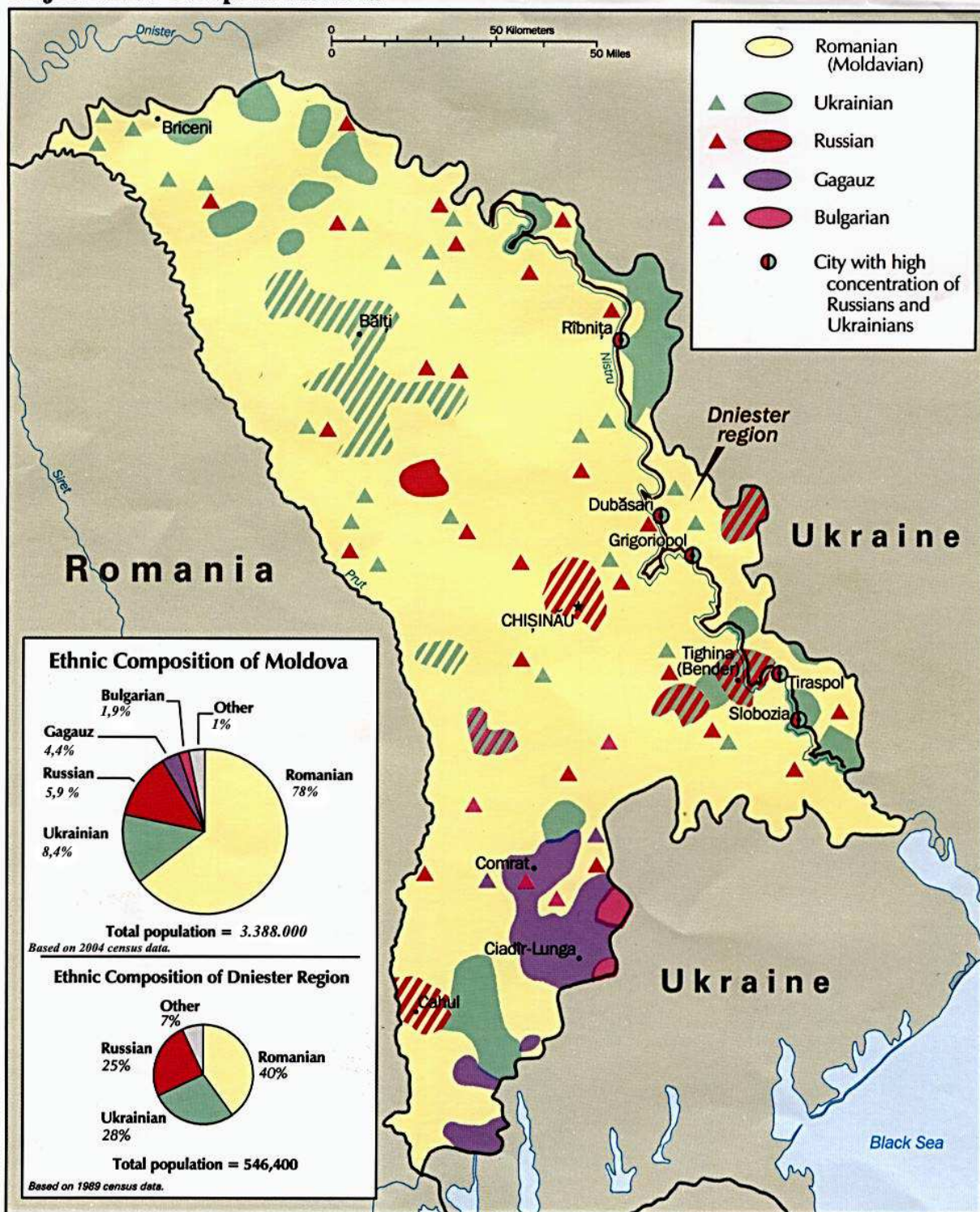
THE NATIONAL MINORITIES REPRESENTATION IN THE REGIONS OF UKRAINE					
	1989		2001		2001 in % Comparing to 1989
	Absolute number, thousand	percentage of the whole populations, %	Absolute number, thousand	percentage of the whole populations, %	
Crimea	2036.2	100.0	2024.0	100.0	99.4
Russians	1335.3	65.6	1180.4	58.3	88.4
Ukrainians	543.9	26.7	492.2	24.3	90.5
Crimean Tatars	38.6	1.9	243.4	12.0	x 6.3
Byelorussians	42.4	2.1	29.2	1.4	68.9
Tatars	9.5	0.5	11.0	0.5	116.2
Armenians	2.4	0.1	8.7	0.4	x 3.6
Jews	14.9	0.7	4.5	0.2	30.2
Poles	5.4	0.3	3.8	0.2	70.9
Moldovans	5.4	0.3	3.7	0.2	68.8
Azerbaijanis	2.1	0.1	3.7	0.2	173.0
Vinnitsia oblast	1921.5	100.0	1763.9	100.0	91.8
Ukrainians	1758.5	91.5	1674.1	94.9	95.2
Russians	112.5	5.9	67.5	3.8	60.0
Poles	8.2	0.4	3.7	0.2	45.1
Belorussians	5.1	0.3	3.1	0.2	61.1
Jews	25.6	1.4	3.0	0.2	11.7
Moldovans	3.3	0.2	2.9	0.2	87.2
Zakarpatska oblast	1245.9	100.0	1254.6	100.0	100.7
Ukrainians	976.9	78.4	1010.1	80.5	103.4
Hungarians	155.7	12.5	151.5	12.1	97.3
Romanians	29.4	2.4	32.1	2.6	109.0
Russians	49.4	4.0	31.0	2.5	62.7
Roma	12.1	1.0	14.0	1.1	115.4
Slovaks	7.2	0.6	5.6	0.5	77.7
Germans	3.4	0.3	3.5	0.3	103.0
Odesa oblast	2623.6	100.0	2455.7	100.0	93.6
Ukrainians	1433.4	54.6	1542.3	62.8	107.6
Russians	719.2	27.4	508.5	20.7	70.7
Bulgarians	165.7	6.3	150.6	6.1	90.9
Moldovans	144.5	5.5	123.7	5.0	85.6
Gagauz	27.4	1.0	27.6	1.1	100.9
Jews	68.6	2.6	13.3	0.5	19.4
Belorussians	21.1	0.8	12.7	0.5	60.1
Jews	5.2	0.2	7.4	0.3	142.9
Roma	3.8	0.1	4.0	0.2	104.3
Chernivtsi oblast	940.6	100.0	919.0	100.0	97.7
Ukrainians	666.4	70.8	689.1	75.0	103.4
Romanians	100.4	10.7	114.6	12.5	114.2
Moldovans	84.5	9.0	67.2	7.3	79.5
Russians	63.1	6.7	37.9	4.1	60.1
Poles	4.6	0.5	3.3	0.4	71.6
Belorussians	2.7	0.3	1.4	0.2	51.8
Jews	15.9	1.8	1.4	0.2	8.8

State Statistics Committee of Ukraine:
<http://www.ukrcensus.gov.ua>

Table # 8

ETHNIC COMPOSITION OF MOLDOVA ACCORDING TO 1989 CENSUSES						
Language and Ethnicity in the MSSR, 1989						
	Native language (%)			Fluent knowledge of another soviet language (%)		
	Language of own ethnic group (%)			Language of own ethnic group (%)		
	Moldovan	Romanian	Russian	Moldovan	Romanian	Russian
Moldovans	95.4	–	4.3	1.7	–	25.7
Ukrainians	61.6	1.6	36.7	8.6	12.8	43.0
Russians	99.1	0.6	–	0.6	11.7	–
Gagauz	91.2	1.1	7.4	1.6	4.4	72.8
Bulgarians	78.7	2.4	18.1	–	6.9	68.3
Jews	25.9	0.8	72.9	6.9	15.2	23.1
Roma (Gypsies)	82.0	13.5	3.6	1.2	30.6	41.9
TOTAL	88.9	0.5	10.3	2.6	3.9	45.2

Major Ethnic Groups in Moldova



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* Source: This map was built by PhD Ana Pascaru while studying social conflicts and interethnic conflicts. It has been published in: *From misunderstanding toward openness and collaboration in multicultural societies*. Pontic, Chisinau (2005).