

**Democratic Alliance of Hungarians in Romania**  
**“Mikó Imre” Minority Rights Legal Aid Service**

**REPORT**

**on the problems concerning the commitments made by Romania on the protection of and the right to use the Hungarian language, in the European Charter for Regional or Minority Languages adopted at Strasbourg on 5 November 1992<sup>1</sup>**

**drawn up at the time of the 2<sup>nd</sup> Regular Report submitted by Romania to the General Secretary of the European Council**

**Submitted to the General Secretary of the European Council and the Committee of Experts of the European Council**

**Cluj Napoca**  
**2016**

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<sup>1</sup> Ratified by Romania by Law No. 282 of 24 October 2007, published in the Official Journal of Romania No. 752 of 6 November 2007

## **I. Introduction**

1. Romania has ratified the European Charter for Regional or Minority Languages,<sup>2</sup> adopted at Strasbourg on 5 November 1992 (hereinafter referred to as „the Charter”), and undertook a number of obligations on the protection of regional and minority languages used on its territory. By Article 2(k) of the ratifying Law No. 282/2007, Romania has assumed the implementation of the provisions of the Charter for the Hungarian language within the limits set out by Article 5(e) of the ratifying Law.
2. Hungarian is the mother tongue of the Hungarian community in Romania which represents 6.5% of the **stable** population of Romania, 1.259.914 of citizens declared Hungarian as their mother tongue, according to the census of the population of Romania in 2011. The Hungarian population is the majority in Harghita (85%) and Covasna (74%) counties, and a significant proportion of the population in Mureş (38%), Satu Mare (35%), Bihor (25%) and Sălaj (23%) counties is also Hungarian. The proportion of Hungarians in Cluj, Hunedoara, Alba, Timiș and Maramureș counties is between 5% and 20%.<sup>3</sup>
3. The Hungarian language constitutes one of the basic elements of the cultural and ethnic identity of the Hungarian community in Romania and one of the most important tools to preserve and develop this identity. In Romania, the right to use the Hungarian language was subject to a series of restrictions and a gradual and then complete elimination process during the communist regime in the following areas: education, public service, justice, public administration, culture, mass-media and even private life.<sup>4</sup> The policy to gradually restrict and then completely eliminate the use of the Hungarian language during communism was one of the main tools to assimilate the Hungarian minority in Romania.
4. Recognition and assertion of the language rights of the Hungarian community in practice, as part of the rights of national minorities, have represented one of the basic requirements undertaken by Romania during the accession process to the European and Euro-Atlantic structures. Monitoring of the effective implementation of linguistic rights in practice constitutes an important tool for the progress of the Hungarian community to preserve and develop its national minority identity.
5. This material has been drawn up under Article 16(2) of the European Charter for Regional or Minority Languages and constitutes a report on problems concerning the commitments made by Romania on the protection and assurance of the right to use the Hungarian language in accordance with Section III of the European Charter for Regional or Minority Languages, adopted at Strasbourg on 5 November 1992, and ratified by Romania by Law No. 282/2007. This Report attempts to draw attention to the deficiencies and shortcomings in the protection and assurance of the right to use the Hungarian language in Romania within the framework of analysing the following areas: legislation, interpretation and implementation of the legislation in relevant areas in practice.
6. This Report includes a series of constructive recommendations to remedy the deficiencies identified. The “Mikó Imre” Minority Rights Legal Aid Service of the DAHR shall present a

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<sup>2</sup> Law No. 282 of 24 October 2007 ratifying the European Charter for Regional or Minority Languages, adopted on 5 November 1992, at Strasbourg

<sup>3</sup> See <http://www.recensamantromania.ro/rezultate-2/>

<sup>4</sup> See Report – Presidential Commission for Analysing the Communist Dictature in Romania, situation of the national minorities – Hungarians, page 523; See page 532 – The impact of the measures taken by the communist regime concerning education, culture and the use of the mother tongue, available at: [http://www.presidency.ro/static/ordine/RAPORT\\_FINAL\\_CPADCR.pdf](http://www.presidency.ro/static/ordine/RAPORT_FINAL_CPADCR.pdf)

statement on Romania's policy in line with Section II of the Charter, pursuant to Article 16(2) of the abovementioned international convention.

## II. On the applicant organization

7. The Democratic Alliance of Hungarians in Romania – DAHR is a legal entity registered in Romania, with its seat in Bucharest (str. dr. Lister nr. 57, Sector 5) and its executive office in Cluj Napoca (str. Republicii nr. 60). The official homepage of the organisation: [www.rmdsz.ro](http://www.rmdsz.ro) / [www.udmr.ro](http://www.udmr.ro) / <http://www.dahr.ro/>.
8. The Alliance is an association of the Hungarian national community in Romania, which has been established to protect, publicly represent and coordinate the interests of this community, and to promote self-organization of the community and improve material and spiritual conditions to promote self-organization in the interest of protecting, preserving and developing national identity, promoting equal economic and social opportunities and staying in their homeland, and which carries out its activities under the rules of democracy and pluralism.
9. The Alliance is the sole organisation representing the Hungarian community in the Romanian Parliament after the fall of communism (1989), and at this time, the parliamentary group of DAHR has 18 deputies and 8 senators.  
Since its establishment, DAHR has committed itself to the integration of Romania into the EU structures by its political contribution to the accession of Romania to the European Union and NATO. DAHR and the Hungarian community have been and remain **an important factor in the democratization and stabilization of Romania** by supporting the adoption and implementation of the democratic principles, human rights and the rights of national minorities.
10. The “**Mikó Imre**” **Minority Rights Legal Aid Service** has been established and carries out its activities within DAHR in order to monitor respect for the rights of the Hungarian minority, drawn up complaints in cases of infringements of these rights, receive petitions, provide legal assistance to victims of ethnic discrimination, draw up opinions and provide assistance to the specialized fora of the European Union.

## III. Scope and methodology of the Report

11. This Report aims at monitoring the progress in the protection of the Hungarian language in Romania and the level of use of this language in accordance with the requirements of the ratified Charter. For this reason, the authors of this document will analyse the 2<sup>nd</sup> Report of the Romanian Government submitted in 2016 in view of the recommendations made by the Committee of Experts in 2012 and will provide a parallel description of the current situation concerning the use of Hungarian language in Romania based on the principle of effectiveness. Therefore, in addition to an analysis of the situation of the legislation, the objective of this Parallel Report is to provide a real and up-to-date picture of how the obligations assumed by the ratification of the Charter by Romania have been fulfilled.
12. The Report is structured according to the fields of protection defined in the Charter: Education (Article 8), Judicial authorities (Article 9), Administrative authorities and public services (Article 10), Communication (Article 11), Cultural activities and facilities (Article 12), Economic and social life (Article 13), Cross-border exchanges (Article 14) and Information (Article 6). These fields of protection analysed by paragraphs and subparagraphs according to the ratified sections of the Charter by Romania for the Hungarian language.

13. This Report is grounded on an analysis of the legislation, its interpretation and implementation, which includes concrete examples of limitation and refusal to fulfil legal obligations concerning the use of the Hungarian language. Furthermore, a number of proposals to remedy problems identified in the application of the linguistic rights of the Hungarian community in Romania.
14. This Report used the public data resulting from the monitoring activity of the “Mikó Imre” Minority Rights Legal Aid Service, data from public reports, official statistics and information from mass-media.

#### **IV. General considerations on the state of application of the Charter**

15. During the first monitoring cycle, the Committee of Experts has expressed regret over the 18 months delay in the submission of the initial Monitoring Report by Romania. The deadline for submitting the 2<sup>nd</sup> Report for the monitoring period 2010-2013 was at the end of 2013. This submission deadline has been exceeded by more than 2 years.
16. We note that the Country Report for 2010-2013 was submitted on 2 March 2016 with a significant delay, which has a substantial impact on the effective implementation of the Charter. Thus, late submission of the Country Report renders impossible the monitoring of the Charter in real time and in a timely manner and prevents the correction of problems identified during the monitoring activity and expresses the minimisation by the Romanian State of the importance of this international tool in protecting the use of Hungarian language. Due to the late submission of the Country Report, we have to present all events during the 2010-2016 period for this is an ongoing process.
17. During the first monitoring cycle, the Committee of Experts established that the lack of information on the implementation of some of the obligations undertaken and erroneous interpretation of the scope of some provisions of the Charter leads to the conclusion that Romania has no structured vision in the implementation of the Charter. Furthermore, the information provided by the State to local authorities in charge of the implementation of the provisions of the Charter and the implementing law are insufficient. Therefore, the Committee of Experts recommends Romania to determine specific steps in the implementation of each obligation undertaken by the State and set out the time frame for carrying out these steps through cooperation with minority organizations and local authorities.
18. The 2016 Country Report states that the efficiency of the implementation of the obligations is higher than during the first monitoring cycle, but avoids describing specific measures taken to improve the implementation mechanism for implementing the obligations in the Charter by using a very general language.
19. The Report adopted on 2 June 2012, the Committee of Experts expressed its disagreement as regards the limitation of the implementation of Article 10 of the Charter only to those administrative units where the proportion of a national minority is at least 20% of the population. The Committee considers that this limitation leads to a territorial restriction which is inconsistent with the spirit of the Charter. In any case, the Committee considers that the minimum limit of 20% is too high and unfairly prevents a high number of the minority speakers to exercise the rights contained in the Charter if they do not live in a single administrative unit. Therefore, the Committee of Experts calls on the Romanian state to reconsider this limit of 20% and to promote the application of the provisions of the Charter even where the minority population does not reach the threshold from which the application of the law becomes mandatory. Since the 2012

Country Report uses a very general language, the Committee of Experts cannot evaluate the attitude of the authorities towards the administrative units where the minority population does not reach the threshold of 20%, and thus, it calls on Romania to provide information on voluntary granting the rights provided for in the Charter.

20. The authors of this Report found that Romania failed to take any measure to encourage the voluntary application of the right to use minority languages as provided for in Article 10 of the Charter and these rights continue to remain individual rights, which are optional and not mandatory in the cases where the number of the members of a national minority is below the 20% threshold. Furthermore, in many cases, the national legislation is incomplete or, despite of the obligations in relevant conventions, their application is prevented by the lack of implementing rules and by their excessively restrictive interpretation.
21. As regards the imminent restructuring of the administrative units in Romania, the Committee of Experts does not favour the restructuring version in which Mureş/Maros, Harghita/Harghita and Covasna/Kovászna counties would be integrated into a larger administrative unit where the linguistic composition would have the Hungarian minority at disadvantage. Therefore, the Committee encouraged Romania not to prevent the promotion and use of the Hungarian language in this region through this administrative reorganization.
22. Szeklerland is a historical and geographic region, which includes Harghita, Covasna and partially Mureş counties, inhabited by Hungarians in a proportion of over 80%. 38% (470,343 people) of the Hungarians live in this region in Romania. Szeklerland is the only region in Romania, where Hungarians live in a compact group and are in majority, and which survived, with some losses, despite the assimilation policies of the nationalist and communist regime of Ceauşescu. This community has a historical, cultural and economic tradition in a common geographical space. Through systematic actions, the Romanian authorities **refuse to recognise the right of this compact Hungarian community to use the Hungarian language and to express its identity.**
23. The prohibitions affect, for example, the following identity elements:
  - the right to sing the Szekler Anthem and the Hungarian Anthem in public spaces;
  - the right to finance local newspapers and magazines in Hungarian, without the obligation to translate them into Romanian in full;
  - the right to post inscriptions on public buildings, such as city halls, with traditional names, for example “town house” or “village house”.

## **V. Article 8 - Education**

### **General aspects**

24. The Committee of Experts states in its 2012 Report that, though Romania ratified Articles 8.1.a.i, b.i, c.i and d.i as regards Hungarian language, which requires the state to ensure education in minority languages without a prior request from the students or parents, in practice, the state sets out a minimum number of requests from the students or parents in order to ensure education in Hungarian language. Furthermore, the Committee found that in many counties, such as Timiş/Temes, Arad, Bihor/Bihar, Satu Mare/Szatmár/Sathmar, Maramureş/Máramaros, Sălaj/Szilágy, Cluj/Kolozs, Alba/Fehér, Hunedoara/Hunyad, Sibiu/Hermannstadt/Nagyszeben, Bistriţa-Năsăud/Beszterce-Naszód, Mureş/Maros, Harghita/Hargita, Covasna/Kovászna, Braşov/Kronstadt/Brassó, Bacău/Bákó and Bucharest, continuous education in Hungarian is not always provided for all school years, from nursery to high school.

25. The Country Report lists a series of information in order to prove the improved assurance of the rights in Article 8; however, this information is incomplete and fails to provide a global picture about the education in Hungarian. The Country Report fails to present the real situation of the implementation of obligations undertaken by Romania by ratifying the Charter in this area, as well.
26. Romania has enacted a substantial reform in education by adopting the Law on national education No. 1 of 5 January 2011. This law lays down “the principle of recognizing and guaranteeing the rights of members of national minorities, the right to preserve, develop and express their ethnic, cultural, linguistic and religious identity”.<sup>5</sup>
27. Furthermore, according to Article 10 of the Law on national education No. 1/2011, education is service of public interest, which should be provided in the language of national minorities, as well. Members of national minorities have the right to study and learn in their mother tongue at all levels, in all types and forms of undergraduate education under the conditions laid down in the legislation.<sup>6</sup>
28. **The remarks on this area of activity concern serious elements related to the failure to apply the Law on national education in practice.**

#### **Analysis by paragraphs and subparagraphs in the protected area**

#### **29. Article 8:**

**Paragraph 1.** With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:

#### **30. Subparagraph (a)(i)** to make available pre-school education in the relevant regional or minority languages;

**- commitment partially fulfilled -**

31. The national undergraduate education system includes **early education** (0-6 years), composed of the **ante-preschool level** (0-3 years) and **preschool level** (3-6 years), which includes the beginner, intermediate and advanced groups.<sup>7</sup> The ante-preschool level includes **crèches** or **nurseries and day centres**.<sup>8</sup>
32. Though, members of national minorities have the right to study and learn in their mother tongue at all levels, types and forms of undergraduate education<sup>9</sup>, this right is not ensured at **ante-preschool level (0 to 3 years)**. Thus, there are no educators and caregivers are employed in the preschool education (which includes **crèches** or, as appropriate, **nurseries and day centres**) who speak Hungarian. As an example, there has been no educator or caregiver in “Sfântul Iosif” in Oradea/Nagyvárad crèche who knows Hungarian since 2013. The Social Community Administration – Local Council of Oradea/Nagyvárad refused the request of the parents and the representative organizations of Romanian citizens, members of the Hungarian minority, to

<sup>5</sup> Article 3(i) of the Law on national education No.1/2011

<sup>6</sup> Article 45(1) of the Law on national education No.1/2011

<sup>7</sup> Article 23(1)(1) of the Law on national education No.1/2011

<sup>8</sup> Article 27(1) of the Law on national education No.1/2011

<sup>9</sup> Article 45(1) of the Law on national education No. 1/2011

employ or extend the transfer of Hungarian educators on the basis that employments are blocked by law, and a decrease in the number of children has led to the dismissal of the appointed educator who spoke Hungarian.<sup>10</sup>

The obligation to ensure the teaching staff necessary for ante-preschool education shall be with the authorities of the local public administration, together with school inspectorates, in compliance with quality standards and the legislation in force.<sup>11</sup>

The Law on national education is construed in such a way as not to allow the organization of groups using Hungarian language in **crèches and nurseries or day centres**.

**33.** At the level of **preschool (3-6 years) education**, we complain because there is no legal possibility to ensure courses in Hungarian, upon request, for the children who are enrolled in a preschool unit with teaching in the official language of the state or an international language.

**34.** There are no public data on the number of children learning in Hungarian at preschool level, the number of educators who teach in Hungarian at preschool level and the number of preschool units with teaching in Hungarian.

There are no studies, reports or data of public authorities on the progress and the need for teaching in Hungarian at preschool level.

**35. Subparagraph(b)(i)** to make available primary education in the relevant regional or minority languages;

- commitment partially fulfilled -

**36.** The pre-university system includes the primary school, that is, the preparatory year and school years 1 to 4.<sup>12</sup> At this level, students of national minorities are taught in their mother tongue and all subjects are studied in Hungarian (except for the Romanian language) in classes with teaching in this language.<sup>13</sup>

**37.** There are no data on the possibility to study Hungarian language on request for students who are in classes with teaching in other languages (Romanian or another international language).

There are no regular public reports and evaluations on the primary schools with teaching in Hungarian.

**38.** One of the problems identified is the manner in which Romanian language is studied because it is taught as mother tongue everywhere, regardless of the language of teaching and the mother tongue of the student. Specifically, this problem is obvious in the case of children raised in an environment where the Hungarian language is almost the only language used during the preschool period (as is the case of Hargita/Harghita and Covasna/Kovászna counties) and the children have to start learning Romanian as if it is their mother tongue, and in particular that the curriculum includes classical writers and works written in an archaic Romanian language, which is difficult to understand even for native speakers. Although there are legal provisions that allow members of national minorities to study the Romanian language as second language, these provisions are not applied in practice. The methodology to apply this legislation has been only partially drawn up after the Law was approved and the handbooks have not been developed to date.

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<sup>10</sup>See an article published on site: <http://kronika.ro/erdelyi-hirek/egyenlotlen-bolcsodei-egyenloseg>, accessed on 19 October 2013

<sup>11</sup> Article 27(3) of the Law on national education No. 1/2011

<sup>12</sup> Article 23(1)(b) of the Law on national education No. 1/2011

<sup>13</sup> Article 45(1) of the Law on national education No.1/2011

39. Non-compliance with the legal provisions leads to major difficulties in the study of Romanian language and certainly fails to help improving proficiency and to have a conversation in Romanian. This practice is strongly discriminatory against Hungarian children who are prevented to learn the official language at a young age. Learning and speaking fluent Romanian is in the interest of Hungarian children, and adequate teaching of this language is not ensured, which leads to problems in the long term.
40. The Romanian state failed to develop and implement Romanian language and literature tutoring programs for Hungarian students who are Romanian citizens. These programs are implemented in Harghita/Harghita and Covasna/Kovászna counties by associations and foundations financed by the Government of Hungary. The percentage of Hungarian students who passed the Romanian language Baccalaureate exam has substantially increased in the group of children who benefited from being provided tutoring.
41. **Subparagraph (c)(i)** to make available secondary education in the relevant regional or minority languages;  
- commitment partially fulfilled -
42. The secondary educational system includes the inferior secondary (gymnasium, classes 5 to 8) and the superior secondary systems (high school, classes 9 to 12/13), with the following fields: theoretic, vocational and technical.<sup>14</sup> At this level, members of the national minorities have the right to study in their mother tongue and all subjects are studied in Hungarian (except for the Romanian language) in classes with teaching in this language.<sup>15</sup>
43. There are no data on the possibility to study Hungarian language on request for students who are in classes with teaching in other languages (Romanian or another international language).
44. There are practices to draw up schooling plans which provide for a significantly lower number of students in the education in Hungarian for 9<sup>th</sup> grade, compared to the number of students who study and graduate from 8<sup>th</sup> grade in Hungarian language. The number of students is established on the basis of the teaching staff available for high schools, who are mostly teachers who each only in Romanian, and not on the basis of the number of students graduating from 8<sup>th</sup> grade with teaching in Hungarian.<sup>16</sup> Although this practice has been declared discriminatory by the National Council for Combating Discrimination, by a decision maintained by the High Court of Cassation and Justice of Romania, it continues to be applied by county school inspectorate and the Ministry of National Education.
45. There are no regular public reports and evaluations on the secondary education in Hungarian.
46. **Subparagraph (d)(i)** to make available technical and vocational education in the relevant regional or minority languages;  
- commitment partially fulfilled -
47. The pre-university system includes: professional education with a duration of 6 months to 2 years and the tertiary non-university system, which includes post-secondary training.<sup>17</sup> In theory, according to the law, at this level members of national minorities have the right to study all

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<sup>14</sup> Article 23(1)(c) of the Law on national education No.1/2011

<sup>15</sup> Article 45(1) of the Law on national education No.1/2011

<sup>16</sup> See *Alternative Report on the application of the European Charter for Regional or Minority Languages in Romania* – for Civil Commitment Movement, accessed at: [http://www.cemo.ro/ro/bilingvism\\_2011.html](http://www.cemo.ro/ro/bilingvism_2011.html)

<sup>17</sup> Article 23(1)(d) and (e) of the Law on national education No. 1/2011

subjects in their mother tongue (except for the Romanian language).<sup>18</sup> In practice, there are not enough teachers to ensure teaching in Hungarian, and the students have to study in the official language of the state. This leads to the approval of schooling plans depending on the teaching staff, and not on the educational needs of the students.

48. There are no regular public reports and evaluations on the technical and vocational training in Hungarian.

49. **Subparagraph (e)(i)** to make available university and other higher education in regional or minority languages;  
- commitment partially fulfilled -

50. Article 135 of the Law on national education No. 1/2011 provides that:

“(1) Higher education for national minorities is ensured by:

- a) higher education institutions with faculties/lines/study programs with teaching in the minority language;
- b) multicultural and multilingual higher education institutions; in this case, there will be departments/lines with teaching in the minority language;
- c) within these higher education institutions, there may be groups, departments or lines with teaching in the minority language, in accordance with the law.

(2) The study line within multicultural and multilingual universities is organized in departments. The university teaching staff shall develop and approve its own rules of procedure, which establishes the election procedures and other issues specific to the organizational structures of that study line in accordance with the University Charter within 6 months from the date when this Law enters into force.

(3) The study line is an organizational form in the higher education with teaching in a minority language, which can include institutions both at the level of a university and a faculty, through the department of the section, which includes the related study programs and organizational structures. These sections enjoy university autonomy in the organization of teaching activities.

(4) In the higher education system for national minorities, the first (degree), the second (master degree) and the third cycles (PhD degree), as well as the postgraduate education are ensured in Hungarian.

(5) Their financing is calculated on the basis of an increased coefficient for students who study in a minority language.”

51. Though the provisions of the new Law on national education provides for the most generous rights in higher education in Hungarian, at this time the Romanian state continues to refuse the establishment of a state-financed university with teaching in Hungarian, which could create the conditions to effectively ensure these rights in Hungarian.

At this time, there are universities with teaching in Hungarian, financed by Hungary: “Sapientia” University and “Partium” University.

52. There are 3 multicultural and multilingual universities in Romania: “Babeş-Bolyai” University, the University of Arts in Târgu-Mureş and the University of Medicine and Pharmacy in Târgu-Mureş. The two former universities have observed and implemented the provisions of the Law on education in a timely manner, to establish departments/units with teaching in Hungarian. **The University of Medicine and Pharmacy in Târgu-Mureş (hereinafter referred to as “UMP Târgu-Mureş”) continues to refuse to meet these legal obligations.**

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<sup>18</sup> Article 45(1) of the Law on national education No.1/2011

53. Thus, Article 39 of the University Charter of the UMP Târgu-Mureş provides for as an organizational form for studying in Hungarian only departments. This structure does not have its own rules of procedure, an independent management level or university autonomy in the organization of teaching activities in Hungarian, as study lines or study sections. The seriousness of this action of the UMP Târgu-Mureş Senate is doubled by the courts, which required the Ministry of Education and Research to approve this illegality.<sup>19</sup>
54. UMP Târgu-Mureş was established by Decree Law No. 402 issued by King Mihai I on May 28, 1946, as a state university with teaching in Hungarian, and was subject to a process of eliminating teaching in Hungarian under the communist regime during the 1960's.
55. Failure to observe the provisions of the Law on national education by the Senate of the UMP Târgu-Mureş in connection to multicultural universities, with regard to studying in Hungarian, seriously affects the right to study medical sciences in Hungarian, which is a traditional field of the Hungarian community, and we believe that it is a measure aimed at assimilating the scientific community in UMP Târgu-Mureş.
56. The second regulation, which seriously affects medical education in Hungarian at the UMP Târgu-Mureş, is a new provision in Article 46 of the University Charter of the institution, which states that **all practical courses, traineeships, seminars, specialty practice and graduation exams shall be held exclusively in Romanian in accordance with the provisions of the Romanian Agency for Quality Assurance in Higher Education (RAQAHE).**
57. In the justification of its decision, the UMP Târgu-Mureş argues that the students learning in Hungarian should be familiar with the medical language in Romanian and refers to a manipulative letter of RAQAHE. Thus, by Letter No. 1982 of April 25, 2013, the Romanian Agency for Quality Assurance in Higher Education states that all practical courses, traineeships, seminars, specialty practice and graduation exams shall be held in Romanian. To justify this decision, RAQAHE cites Article 53 of Directive 2005/36/EC of the European Parliament and of the Council of September 7, 2005, on the recognition of professional qualifications, by referring to linguistic knowledge, with the following content: "*Persons benefiting from the recognition of professional qualifications shall have a knowledge of languages necessary for practising the profession in the host Member State*" – Romania is not a host Member State for the Romanian citizens belonging to the Hungarian minority, **but the state of origin.**
58. This provision of the Directive shall apply where a Romanian citizen, who graduated a medical school in Romania, **wishes to practise as physician, for example, in France or Germany, in which case he or she has to know the language of the host Member State, that is, French or German.**
59. The second argument of the UMP Târgu-Mureş is also unacceptable, which states that there is no teaching staff for studying in Hungarian and it is impossible to call for applications for positions for teachers where proficiency in Hungarian language is required. The requirement of proficiency in a foreign language does not constitute an act of discrimination if it is an **authentic professional requirement** according to the job description and has a legitimate aim, and it requires the employment of adequate and necessary methods. The requirement of proficiency in Hungarian for teachers, who will teach students registered to courses in Hungarian, is therefore legitimate.

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<sup>19</sup> Sentence No. 91 delivered in public hearing on May 11, 2012, of the Court of Appeal of Târgu-Mureş, Department of Administrative Appeals and Sentence No. 84 of May 4, 2012, of the Court of Appeal of Târgu-Mureş, both are maintained in the appeal proceedings

60. We do not deny the importance of being familiar with the medical language in the official language of the state. We consider that imposing this requirement is the responsibility of the UMP Târgu-Mureș, but this aim should be achieved through programs aimed at studying the medical language in the official language during all study years, and not by organizing all practical courses, traineeships, seminars, specialty practice and graduation exams exclusively in Romanian.
61. A non-discriminatory solution is to hold these practical courses, traineeships, seminars, specialty practice and graduation exams **both in Romanian and Hungarian**.
62. This measure violates the right to higher medical education in Hungarian and limits the possibility to implement a human resource strategy aimed at training a reasonable number of university teaching staff able to teach in Hungarian. At this time, there are **34 vacant teaching positions in Hungarian, and of the 55 subjects 42 (76.3%) are NOT covered by Hungarian teaching staff**, taking into account that there are 200 students, on average, in each year of study, who study in Hungarian.
63. **This situation is a direct consequence of the assimilation and elimination policy in the medical education in Hungarian implemented during the communist period, which is still preserved in a different form and intensity, as well.**
64. Failure to apply the Law on national education by excluding the Hungarian language from the practical training prevents the access of teachers who can teach in Hungarian to meet the criteria required to occupy the positions to be filled.
65. We note with concern that the situation created by the Senate of UMP Târgu-Mureș has not been considered by the National Council for Combating Discrimination as being discriminatory although it violates the principle of equality in the exercise of the right to education (see NCCD Decision of October 16, 2013).
66. The Senate of UMP Târgu-Mureș **keeps the higher medical education in Hungarian trapped and creates a vicious circle for this reason**: as a result of the assimilation and elimination policy in the medical education in Hungarian, the management cannot meet the accreditation criteria for a section with teaching in Hungarian – the regulation for a Hungarian study line with administrative autonomy is denied and the Hungarian language is excluded from practical courses, traineeships, seminars, specialty practice and graduation exams, and the possibility to recruit university assistants who could meet the criteria for filling teaching positions in the medical education units is therefore limited. UMP Târgu-Mureș applies the principle “trust is good, but control is even better”.
67. The official nomenclature of accredited university programs, provided in Government Resolution No. 493/2013<sup>20</sup>, reveals that the majority of the programs are not ensured in Hungarian, as well.

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<sup>20</sup> *Decision No. 493/2013 on the approval of the Nomenclature of fields and academic programs / specializations, the structure of higher education institutions, the academic fields and programs either accredited or temporarily authorized to operate, the approved geographic locations, the number of transferable credits for each academic program, the form of education and teaching language and the maximum number of students that may be schooled in the academic year 2013-2014.*

68. There are no regular public reports and evaluations on the universities with teaching in Hungarian.
69. **Subparagraph (f)(i)** to arrange for the provision of adult and continuing education courses which are taught mainly or wholly in the regional or minority languages;  
- commitment partially fulfilled or unfulfilled –
70. There are no official/institutional courses for adults or of life-long training mainly or fully in Hungarian.
71. **Subparagraph (g)** to make arrangements to ensure the teaching of the history and the culture which is reflected by the regional or minority language;  
- commitment partially fulfilled -
72. The study of history and culture in the minority language is ensured, however, the methodology, the curriculum and the educational program *are drawn up only in Romanian*. Another worrying aspect in the education of national minorities is the refusal of the state to allow the study of the history of their predecessors. A history handbook of the Szekler people (a Hungarian community with a strong regional identity) has been recently published by the councils of Covasna/Kovászna and Hargita/Harghita counties. Although this handbook has been written by leading historians and read by academicians, it has been prohibited in schools.
73. **Subparagraph (h)** to provide the basic and further training of the teachers required to implement those of paragraphs a to g accepted by the Party;  
- commitment partially fulfilled –
74. There is no national strategy for basic and permanent instruction of teaching staff necessary to implement the provisions of the Charter. All school documents, reports, certificates and contracts are drawn up only in Romanian.
75. **Subparagraph (i)** to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.  
- commitment partially fulfilled -
76. At central level, at the level of the Ministry of National Education and Research, there are a number of administrative structures in charge of controlling and monitoring the measures adopted and the progress made. Furthermore, at the level of county school inspectorates, there are specialty school inspectors for education in Hungarian. According to the Law on national education, in school units with classes with teaching in a minority language (Hungarian, in this case), one of the school directors shall be a member of that minority.
77. This last provision is not complied with in practice. As an example, we will describe the situation in Bihor/Bihar county where 6 of 30 school inspectors should be people who known Hungarian, according to the legislation. This condition is not fulfilled. Furthermore, only one of 3 vocational schools is headed by a deputy director who speaks Hungarian.<sup>21</sup>

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<sup>21</sup> A press article on this subject, accessed on 14 September 2013, on site: [s](#)

78. There is no system of sanctions and the possibility to obtain effective remedies for violations of the right to use the Hungarian language in the educational system.
79. There is no database or a system to collect data on the educational system with teaching in Hungarian. There is no system to analyse and publish regular reports on the progress in the educational system in Hungarian.
80. All official homepages of the educational system (the Ministry of National Education – [www.edu.ro](http://www.edu.ro) or County School Inspectorates) are exclusively in Romanian.
81. **Paragraph 2.** With regard to education and in respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage or provide teaching in or of the regional or minority language at all the appropriate stages of education.  
- commitment unfulfilled -
82. The Romanian state fails to ensure that the Csángó communities in Bacău County can study the Hungarian language.  
There are no public data on the fulfilment of this obligation as regards other communities.
83. There should not be neglected the cases where in classes with teaching in Hungarian, optional, facultative or language courses (such as German, French or English), music, physical education or informatics courses are taught by teachers who don't speak Hungarian. So we wonder, how will the students learn a foreign language if the grammar and basic vocabulary are explained in a foreign language as well.

### Conclusions

84. Romania has made significant legislative progresses in terms of ensuring education in Hungarian language by adopting the Law on national education No. 1/2011. However, the Romanian legislation cannot efficiently guarantee the obligations included in the European Charter of Regional and Minority Languages. In the absence of clear domestic laws, the use of the Hungarian language in the relationship with education institutions remains uncertain, and allows each head of institution to decide alone whether they will implement the provisions on the use of the Hungarian language. Furthermore, as we have already shown, Romania presents a series of deficiencies and shortcomings in the practical implementation of the mandatory legal provisions on the education in Hungarian.
85. In order to remedy these deficiencies, we make the following **proposals / requests**:
- to create a system to collect data on the condition and needs of the educational institutions with teaching in Hungarian;
  - to draw up public annual reports, which include statistics and analyses on the progress and evolution of the education in Hungarian;
  - to draw up and implement Guidelines on the legal provisions related to the education in Hungarian;
  - to draw up a clear legislation that complies with the obligations specified in the Charter;
  - to create an efficient system to control the application of the legal provisions on the education in Hungarian;
  - to approve a system of sanctions and to obtain effective remedies for breaches of relevant legal provisions;
  - to ensure the teaching staff required at all levels of the education in Hungarian;

- to ensure a number of students according to the number of the children in pre-school, primary and secondary schools, and university students who request to study in Hungarian;
- to ensure the use of Hungarian in educational units with mixed classes (classes with teaching in Romanian and classes with teaching in Hungarian) in the administrative and educational communication other than those during courses;
- to ensure effective communication of the quotes in Hungarian;
- to issue symbolic graduation diplomas (without legal value) in Hungarian;
- to ensure the use of the Hungarian language in County School Inspectorates in the communication with the students and their parents;
- to re-establish state universities with teaching in Hungarian;
- to establish private universities with teaching in Hungarian;
- to implement Law No. 1/2011 on national education in connection to the possibility of studying in Hungarian at the UMP Târgu-Mureş and to ensure that practical courses, traineeships, seminars, specialty practice and graduation exams are held both in Romanian and Hungarian;
- to ensure that the Csángó communities in Bacău County Hungarian language can study the Hungarian language;
- to organize courses for adults or of life-long training mainly or fully in Hungarian;
- to ensure that the children with special needs in the special educational units can study the Hungarian language (for example, signing);
- to conduct promotion campaigns to encourage education in Hungarian.

## **V. Article 9 - Judicial authorities**

### **General aspects**

- 86.** In its report for 2012, the Committee of Experts has ordered the Romanian state to clarify the manner in which it fulfils its obligations undertaken by the ratification of the provisions in Article 9 in its next report.
- 87.** According to Article 128(2) of the Constitution of Romania: “Romanian citizens belonging to national minorities have the right to express themselves in their mother tongue before the courts of law, under the terms of the organic law”, and Article 128(3) states that this right shall be exercised through “the use of interpreters or translations, ... so as not to hinder the proper administration of justice and not to involve additional expenses to those interested.”

### **Analysis by paragraphs and subparagraphs**

#### **Article 9:**

- 88. Paragraph 1.** *The Parties undertake, in respect of those judicial districts in which the number of residents using the regional or minority languages justifies the measures specified below, according to the situation of each of these languages and on condition that the use of the facilities afforded by the present paragraph is not considered by the judge to hamper the proper administration of justice:*
- 89. Subparagraph (a)(ii) in criminal proceedings:** *to guarantee the accused the right to use his/her regional or minority language;*  
 - commitment partially fulfilled or unfulfilled -
- 90.** The Code of Criminal Procedure adopted by Law No. 135/2010 includes certain provisions on the use of a language other than the official language in criminal procedures. According to

Article 9(3), “Any person placed under arrest has the right to be informed within the shortest delays, and in a language they understand, of the reasons they were arrested”. Article 12(2) regulates the situation of parties belonging to national minorities, that is, “Romanian citizens who are members of national minorities have the right to speak in their maternal language before courts of law, while procedural acts shall be written in the Romanian language.” Paragraph (3) completes this provision as follows: “Parties and subjects in the proceedings who do not speak or understand the Romanian language shall be provided, free of charge, with the possibility to learn of the evidence in the case, to speak and to argue in court, using an interpreter. In the situations where legal assistance is mandatory, the suspect or defendant shall be provided, free of charge, with the possibility of communicating via an interpreter with their counsel so as to prepare the hearing, the filing of an avenue of appeals, or any other motion that has to do with the resolution of the case.”

- 91.** Article 81 lists the rights of an injured party, including the right “to receive an interpreter, free of charge, when they cannot understand, cannot express themselves properly or cannot communicate in the Romanian language”. This right has been introduced subsequently to the publication of Law No. 135, through Law No. 255/2013, as well as point g<sup>1</sup>) of Article 81. Initially, the Code of Criminal Procedure granted this right only to the accused person by Article 83(f).
- 92.** As regards the hearing procedure, Article 105 provides that “(1) Whenever a person subject to hearing cannot understand, cannot speak or cannot express themselves properly in Romanian, their hearing shall be conducted through an interpreter. Such interpreter may be appointed by the judicial bodies or by the parties or victims from among interpreters certified under the law. (2) Exceptionally, in a situation when the urgent taking of procedure measures is required or when a certified interpreter cannot be provided, a hearing may be conducted in the presence of any person who can communicate with the person subject to hearing. However, judicial bodies are under an obligation to resume the hearing through an interpreter as soon as this is possible.”
- 93.** Article 107. Questions regarding the person of a suspect or defendant  
(1) In the beginning of the first hearing, judicial bodies ask a suspect or defendant questions regarding their surname and first name, nickname, birth date and place, personal identification number, surname and first name of their parents, their citizenship, civil status, military status, education, profession or occupation, working place, domicile and address where they actually live, and the address where they want the procedure documents to be served, their criminal record or whether other criminal proceedings are conducted against them, whether they request an interpreter, in the event that they cannot understand, speak or express themselves properly in Romanian, as well as regarding any other data intended to establish their personal status.
- 94.** Article 184 – Forensic psychiatric examination: (12) After such step is taken, the suspect or defendant is informed forthwith, in a language they understand, of the reasons of such admission, and a report shall be concluded for this purpose.
- 95.** Article 209 – Taking in custody: A person taken in custody shall be informed forthwith, in a language they understand, of the offence they are under suspicion of having committed and of the reasons for being taken in custody.
- 96.** Article 212\*) – Judicial control measure ordered by the prosecutor: (2) The attending defendant shall be informed forthwith, in a language they understand, of the offence of which they are under suspicion of, and of the reasons for taking a judicial control measure.

97. Article 226 – Sustaining a pre-trial arrest application during the criminal investigation: (3) After such measure is ordered, the defendant shall be informed forthwith, in a language they understand, of the reasons why pre-trial arrest was ordered.
98. Article 228 – Announcement of pre-trial arrest and of the location where a defendant is held under pre-trial arrest: (1) After such measure is ordered, the defendant shall be informed forthwith, in a language they understand, of the reasons why pre-trial arrest was ordered.
99. Article 329 – The act referring a case to court - (3) In the situation where the defendant does not speak the Romanian language, steps shall be taken to provide a certified translation of the indictment that shall be attached to the documentation stipulated at par. (2). When no certified translators are available, the translation of the indictment shall be performed by a person who can communicate with the defendant. (4) A defendant who is a Romanian citizen and member of a national minority is entitled to require a translation of the indictment in their maternal language.
100. Article 407 – Notifying the ruling: (1) After its issuing, a copy of the minutes related to the ruling shall be notified to the prosecutor, the parties, the victim and, when the defendant is detained, to the administration of the detention facility, in view of exercising the legal avenue of appeal. When the defendant does not understand Romanian, a copy of the minutes related to the ruling shall be notified in a language they understand. When the ruling is written, these shall be notified of the entire ruling.
101. There are no data and public reports or regular reports on the number of cases where the use of the Hungarian language was requested during criminal proceedings. There are only general statistics, which show the number of cases where the use of a foreign language was ensured, without making a distinction whether that language is a minority language protected by the Charter or a foreign language not protected by the same Charter. These statistics make no distinction between Romanian citizens using their mother tongue and other people using a foreign language in justice.
102. ***Subparagraph (a)(iii)** to provide that requests and evidence, whether written or oral, shall not be considered inadmissible solely because they are formulated in a regional or minority language;*  
- commitment partially fulfilled or unfulfilled -
103. During criminal proceedings, the accused can communicate in Hungarian, but in this case he or she will not directly address the judge, but the interpreter, who will transmit a translation of the text to the judge. In criminal proceedings, the accused persons can avail themselves of the services of an interpreter free of charge.
104. Requests can be drawn up only in Romanian. In some cases, written evidences or other documents in Hungarian are accepted, while in other cases, these are not accepted. Documents submitted in Hungarian, should be accompanied by a certified translation.
105. Article 105 of the Code of Criminal Procedure ensures conducting a hearing with the help of an interpreter. There are no data on the number of cases where the Hungarian language was used in the criminal proceedings mentioned in this paragraph.
106. ***Subparagraph (b)(ii)** in civil proceedings: to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense;*  
- commitment partially fulfilled or unfulfilled -

107. According Article 18(2) of the Code of Civil Procedure, “Romanian citizens belonging to national minorities have the right to express themselves in their mother tongue before the courts of law, under the terms of the legislation”, and Article 18(3) ensures that foreign citizens and stateless persons who do not understand or do not speak the Romanian language shall be entitled to take cognizance of all the documents and proceedings, to speak in court and draw conclusions, by means of an interpreter, but not Romanian citizens belonging to national minorities who are in the same situation. Furthermore, paragraph (4) provides that “all requests and procedural documents shall be drawn up exclusively in Romanian”.
108. There are no data or regular public reports on the number of cases where this right has been exercised. The costs of certified translations of the proceedings documents shall be charged to the individual, which generates relevant financial obligation that lead to waiving the right to use the mother tongue.
109. *Subparagraph b) (iii) to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;*  
- commitment partially fulfilled or unfulfilled –
110. In civil procedures the services of an interpreter can be requested, but it is no longer free of charge and the costs are charged to the litigant. In civil procedures, any document submitted in Hungarian must be accompanied by a certified translation charged to the litigant.
111. There are no legal limitations in exercising this right. There are no data and regular public reports issued by the authorities on the number of cases where this right has been exercised.
112. *Subparagraph (c)(ii) in proceedings before courts concerning administrative matters: to allow, whenever a litigant has to appear in person before a court, that he or she may use his or her regional or minority language without thereby incurring additional expense;*  
- commitment unfulfilled -
113. In administrative cases, if the party which wishes to use Hungarian can do so only using an interpreter and the costs shall be charged to this party.
114. In administrative cases, if any document or other written records in Hungarian are accepted, these must be accompanied by certified translations, charged to the litigant.
115. In many cases, the validity of Hungarian documents is questioned by the representatives of the state authorities, especially if these representatives are not Hungarians.
116. There are no legal limitations in exercising this right, but the services of an interpreter or translator are not ensured free of charge.
117. There are no data and regular public reports issued by the authorities on the number of cases where this right has been exercised.
118. *Subparagraph (c)(iii) in proceedings before courts concerning administrative matters: to allow documents and evidence to be produced in the regional or minority languages, if necessary by the use of interpreters and translations;*  
- commitment partially fulfilled or unfulfilled -

**119. Subparagraph (d)** to take steps to ensure that the application of sub-paragraphs i and iii of paragraphs b and c above and any necessary use of interpreters and translations does not involve extra expense for the persons concerned.

- commitment partially fulfilled or unfulfilled -

**120.** We are not aware of specific positive examples where these procedures have been applied, but we are aware of negative ones. As examples, the following section describes one legal case and one practical case:

- as a result of the failure to apply this right in practice, the Democratic Alliance of Hungarians in Romania has proposed that the law on the application of the Code of Criminal Procedure should clearly provide that members of national minorities who live in jurisdictions of courts, tribunals or appeal courts where citizens belonging to national minorities have a share of over 20% of residents, have the right to submit requests and records in their mother tongue, to use their mother tongue, upon request, before the court, and these rights should be ensured at the expense of the state. Furthermore, in order to ensure these rights in practice, these courts should appoint or employ, as appropriate, judicial officials and auxiliary staff who speak the minority language in question. These amendments have been rejected.
- Sz. L., resident of Miercurea Ciuc, a town where 85% of the residents are Hungarians, presented at the local court to lodge an appeal against a protocol on the imposition of a fine on 8 March 2011. The citizen tried to speak in Hungarian and the first reaction of the employees was “I don’t understand”. After some persuasion, an employee appeared who understood Hungarian, but refused to take over and register the appeal written only in Hungarian by saying that a certified translation should also be attached. After some more persuasion, the document was finally received and registered. After a month, the litigant received a letter from the court which requested a certified translation of the appeal.

**121.** There are no data on the allocation of public funds in order to ensure the use of Hungarian language in justice. There are no data on the special training of interpreters who make translations from and into Hungarian in order to use the mother tongue in justice.

**122. Paragraph 2.** *The Parties undertake:*

**123. Subparagraph (a)** not to deny the validity of legal documents drawn up within the State solely because they are drafted in a regional or minority language;

- commitment fulfilled -

**124.** There are no legal restrictions to this end.

**125. Paragraph 3.** *The Parties undertake to make available in the regional or minority languages the most important national statutory texts and those relating particularly to users of these languages, unless they are otherwise provided.*

- commitment partially fulfilled -

**126.** In its recommendations for 2012, the Committee of Experts considers that the obligations in this paragraph are fulfilled since the laws are translated into and published in Hungarian in the Hungarian version of the Official Journal of Romania (“Româniai Hivatalos Közlöny”). However, currently only a minimum number of laws are translated into Hungarian and then published in the Hungarian edition of the Official Journal of Romania, and most of these translations are almost unusable because they are of very low quality, inaccurate and with errors. Furthermore, since the last report submitted by Romania in the implementation of the Charter, a

number of basic laws in key areas in society have been passed such as the new Civil and Criminal Codes, the Codes of Procedures (civil and criminal), the new Code of Labour, the new Tax Code and the Law on social dialogue, which have not been translated into Hungarian.

### **Conclusions**

- 127.** The use of the Hungarian language in justice is not ensured and is not effective and real. The parties do not have the possibility to make their statements, to defend themselves in their mother tongue though there are many situations where they have difficulties in debating complex legal problems in Romanian. The Service for Representation and Assistance “Mikó Imre” has permanently and systematically monitored the progress in the use of the Hungarian language at the Court in Sfântu Gheroghe and the Covasna County Tribunal. In most cases, the language used in legal proceedings has been Romanian, even if in most cases both parties have been Hungarians, and sometimes, understanding the legal terms in Romanian has been a serious challenge for them. Although the legislation ensures the use of the mother tongue in the justice, in practice there are no conditions to exercise this right, and the interpretations of the legislation render impossible the use of the mother tongue.
- 128.** As regards the use of the mother tongue in justice, the data in the report are inconclusive *because there is no distinction made between the procedures on the request of Romanian citizens who speak a minority language or foreign citizens. There are no data or public annual or periodic reports on the number of cases where the use of Hungarian language was requested in criminal, civil or administrative procedures.* Although the right to use, without interference, the mother tongue in both private and public life is a basic principle of preserving linguistic diversity, this right is often restricted.
- 129.** Justice is characterised by the lack of official national data on compliance with the legislation on the use of the Hungarian language, and the absence of these data prevents us to evaluate the application of the legislation in this case. In our view, the lack of monitoring of the manner of implementation, by the lack of information itself and the reluctance of the state to take note of the compliance or non-compliance with the relevant legal provisions, leads to a breach of the obligations to effectively guarantee the rights listed in the Charter and the ratifying law.
- 130.** In order to fulfil the obligations in the Charter assumed by Romania as regards the use of Hungarian language in the justice, we make the following **proposal/requests**:
- to draw up and publish regular (annual) reports which contain statistics on the use of the Hungarian language in the justice and analyses of how the use of the Hungarian language is ensured in the justice;
  - to allocate reasonable human and financial resources to ensure the use of the mother tongue in justice;
  - to create a database on the employees in the justice system who are proficient in Hungarian, respecting the protection of their personal data;
  - to translate and display the name of courts and prosecutor’s offices, the work hours and the most important information on their administration in Hungarian in settlements where the proportion of Hungarians is significant (minimum 20% of the total population);
  - to translate into Hungarian the new laws in key areas in the administration of justice and other social relations (such as the new Civil and Criminal Codes, the new Codes of Civil and Criminal Procedures, the Code of Labour and the Law on social dialog);
  - to organize further training courses for translators and interpreters in Hungarian in the area of justice;
  - to publish an annual report on the use of the Hungarian language in justice.

**VI. Article 10 Administrative authorities and public services – Analysis of obligations under Article 10:**

- Paragraph 1, subparagraphs (a)(ii), (a)(iii), (a)(iv), (a)(v), (b), (c);
- Paragraph 2, subparagraphs (b), (c), (d), (e), (f), (g);
- Paragraph 3;
- Paragraph 4, subparagraphs (b), (c);
- Paragraph 5;

**131. Article 10 - Paragraph 1.** *Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible:*

**132. Subparagraph a)**

*(ii) to ensure that such of their officers as are in contact with the public use the regional or minority languages in their relations with persons applying to them in these languages; or*  
*- commitment partially fulfilled -*

*(iii) to ensure that users of regional or minority languages may submit oral or written applications and receive a reply in these languages; or*  
*- commitment partially fulfilled -*

*(iv) to ensure that users of regional or minority languages may submit oral or written applications in these languages; or*  
*- commitment partially fulfilled -*

*(v) to ensure that users of regional or minority languages may validly submit a document in these languages;*  
*- commitment partially fulfilled -*

*Subparagraph b) to make available widely used administrative texts and forms for the population in the regional or minority languages or in bilingual versions;*  
*- commitment unfulfilled -*

*Subparagraph c) to allow the administrative authorities to draft documents in a regional or minority language.*  
*- commitment unfulfilled -*

**133.** In general, forms and administrative texts, currently used by the population are not translated into regional or minority languages or in bilingual versions.

**134.** There is no such legal provision. All documents are drawn up in the official language of the state, that is, Romanian.

**135. Paragraph 2.** *In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:*

**136. Subparagraph (b)** *the possibility for users of regional or minority languages to submit oral or written applications in these languages;*  
- commitment partially fulfilled –

**137. Subparagraph (c)** *the publication by regional authorities of their official documents also in the relevant regional or minority languages;*  
- commitment partially fulfilled –

**138. Subparagraph (d)** *the publication by local authorities of their official documents also in the relevant regional or minority languages;*  
- commitment partially fulfilled –

**139. Subparagraph (e)** *the use by regional authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;*  
- commitment partially fulfilled –

**140. Subparagraph (f)** *the use by local authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;*  
- commitment partially fulfilled -

**141.** This is legally possible, but its use is only limited in practice.

*Subparagraph (g) the use or adoption, if necessary in conjunction with the name in the official language(s), of traditional and correct forms of place-names in regional or minority languages.*  
- commitment partially fulfilled -

**142.** Though this is legally possible, **it is not applied in practice.** Thus, city halls which are legally required to ensure bilingual inscriptions of the name of settlements, fail to allocate the funds necessary or the funds for taking these measures.

**143.** There are some situations where the Police impose fines to mayors who display the name of settlements in two languages on the road signs at the entry or exit points. For example, the mayor of Miercurea-Ciuc/Csíkszereda, Ráduly Robert was fined 3 times in 2013 for this measure, which was considered an offence by the local Police.

**144. Paragraph 3.** *With regard to public services provided by the administrative authorities or other persons acting on their behalf, the Parties undertake, within the territory in which regional or minority languages are used, in accordance with the situation of each language and as far as this is reasonably possible:*

**145. Subparagraph (a)** *to ensure that the regional or minority languages are used in the provision of the service; or*  
- commitment partially fulfilled –

**146. Subparagraph (b)** *to allow users of regional or minority languages to submit a request and receive a reply in these languages; or*  
- commitment partially fulfilled –

**147. Subparagraph (c)** *to allow users of regional or minority languages to submit a request in these languages.*  
- commitment partially fulfilled -

**148. Paragraph 4.** *With a view to putting into effect those provisions of paragraphs 1, 2 and 3 accepted by them, the Parties undertake to take one or more of the following measures:*

**149. Subparagraph b)** *recruitment and, where necessary, training of the officials and other public service employees required;*  
- commitment unfulfilled –

There are no such training programs for officials and public service employees.

**150. Subparagraph (c)** *compliance as far as possible with requests from public service employees having a knowledge of a regional or minority language to be appointed in the territory in which that language is used.*  
- commitment partially fulfilled -

**151.** There are no public data on these requests and appointments.

**152. Paragraph 5.** *The Parties undertake to allow the use or adoption of family names in the regional or minority languages, at the request of those concerned.*  
- commitment fulfilled -

There are no limitations in this area.

Aspects on application in practice OR

**How has Romania become a “model” for not applying**

**the rights of the Hungarian minority in local government and decentralized institutions**

### **Internal legal considerations**

**153.** Romania regulates the right to use minority languages both in writing and orally in the relations with the authorities of the local government and the decentralized public services at the level of the provisions of the Constitution, the organic and ordinary laws, and the rules of the implementation.

**154.** According to Article 120(2) of the Constitution of Romania, “In administrative units where citizens belonging to a national minority have a significant weight, provision shall be made for the oral and written use of that national minority's language in the relations with the local public administration authorities and the decentralized public services, under the terms stipulated by the organic law”.

**155.** Article 19 of Law No. 215/2001 on local public administration, which can be considered the common law on the use of the mother tongue of national minorities in their relationship with public authorities, provides that “in administrative units where citizens belonging to national minorities have a share of over 20% of residents, the local government authorities and public institutions subordinated to them shall ensure their use of decentralized public services in their mother tongue, according to the Constitution, the present law and international treaties to which Romania is party”.

**156.** In order to complete this article, Article 76(2) states that “in administrative units where citizens belonging to national minorities have a share of over 20% of residents, in the relationship with the local government authorities, specialized organizations and public institutions subordinated to local councils, they have the right to address verbally or in writing in their mother tongue as well and shall receive a reply both in Romanian and their mother tongue”.

157. According to Article 76(3) of Law No. 215/2001 on local public administration, some of the public servants working in the public relations services shall know also the language of the respective minority.

158. Furthermore, the authorities of the public local government:

- shall ensure inscriptions with the names of the settlements and public institutions under their authority, and
- shall display announcements of public interest in the mother tongue of the members of national minorities as well – Article 76(4).

According to the *Law on local government*, local public authorities are required:

- to communicate the agenda of the meeting of councils in minority languages (Article 39, Article 94),
- to communicate to the public the regulatory decisions in minority languages (Article 50).

159. Government Resolution No. 1206 of 27 November 2001<sup>22</sup> adopted the Rules of implementation of the provisions on the rights of citizens belonging to national minorities to use their mother tongue in the local government, included in Law No. 215/2001 on local government.

According to Government Resolution No. 1206/2001, in administrative units where citizens belonging to national minorities have a share of over 20% of residents:

- shall enjoy the right to be communicated in their mother tongue the agenda of the local or county council session, as well as the decisions adopted thereby – Article 2(1);
- shall enjoy the right to address the local public administration authorities and the specialized personnel of local and county councils in their mother tongue, whether in written or orally, and they shall be answered both in Romanian and in the language of their minority – Article 2(2);
- the name of the locality shall also be inscribed in the mother tongue of the citizens belonging to the minority – Article 4(1). Inscription in the mother tongue of the name of localities shall be on the same sign... applied both to entry road signs and to exit road signs – Article 11(1);
- the inscription of the name of public institutions under their authority, and
- public announcements shall also be published in the mother tongue of the respective minority – Article 4(2);
- upon request, the marriage ceremony may be performed in the mother tongue of the persons to be married, **provided the matrimonial officer speaks the respective language** – Article 9(2).

160. The inscription of the name of localities in the mother tongue of citizens belonging to national minorities shall not be used in official documents or correspondence – Article 10(2) of GD No. 1206/2011.

161. Public communication shall be realized through **the same means and under the same terms as communication in Romanian** – Article 7(2).

162. In order to ensure the implementation of the rights to use their mother tongue in local administration, persons who speak the mother tongue of citizens belonging to the respective minority shall be employed or external collaborators shall be used, and the costs will be charged to the budget of the local authorities – Article 15 and Article 16 of GD No. 1206/2011, as well as Article 91 of Law No. 188/1999 on the status of civil servants.

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<sup>22</sup> GR No. 1206 published in the Official Journal of Romania No. 781 of 7 December 2001

- 163.** Failure to comply with the obligations related to the use of the mother tongue in local government shall be fined by **the prefect, the mayor, the president of the county council or the secretary general** - Article 18 of GR No. 1206/2001.
- 164.** Article 19(1)(m) of Law No. 340/2004 expressly states that the **powers of the prefect include the power to ensure the use of minority languages in the relations** between the citizens belonging to national minorities and decentralized public services in administrative units where their proportion exceeds 20%.
- 165.** According to this analysis, Romania has passed internal legislation and has ratified international conventions which apparently create a reasonable framework for respecting the right to use the mother tongue in local administration, at the level of local public institutions and decentralized institutions, however, the interpretation and application of the relevant legal provisions show multiple deficiencies in practice, described in the following subsections.

### **Contradictory and inconsistent legislation**

- 166.** With regard to the application of the legislation on minority rights, there are two major deficiencies:
- On the one hand, in some situations there are a number of apparently contradictory regulatory acts, which usually lead to an unfavourable interpretation and application of minority rights, and
  - On the other hand, the state does not monitor the implementation of the rights guaranteed by these acts.
- 167.** As regards the first issue above, as mentioned above, Law No. 215/2001 on public administration provides a minimum limit for these minority rights to be compulsorily applied, that is, that 20% of the population belongs to a national minority. Of course, this Law does not prohibit the application of favourable provisions even where the proportion of a minority reaches this threshold of 20%. Further, the Romanian Government adopted Resolution No. 1206 of November 27, 2001, as a special norm and complementary with Law No. 215. Article 11(1) of this Resolution sets out rules providing that “inscriptions in the mother tongue of the name of localities where the proportion of citizens belonging to a minority exceeds 20% of the population, will be made on the same boards, under the name in Romanian, using the same fonts, in the same size and colour, *as shown in Annex 2* (emphasis added by us)”. Annex 2 of the Resolution lists the localities concerned.
- 168.** One of the most debated cases included in the apparently contradictory provisions of the two legal acts is the case of Cluj-Napoca (Kolozsvár). Though, the proportion of the Hungarian community did not reach the minimum threshold of 20% at the time when this Resolution was issued according to the census in 2002, Cluj-Napoca is included in the list in question with the name to be displayed both in Romania and Hungarian. However, the competent authorities failed to apply the legal provisions relying on the provisions of Law No. 215/2001 on the minimum threshold of 20% and ignoring the provisions of Government Resolution No. 1206/2001, and the name of this city continues to be displayed only in Romanian.
- 169.** This Resolution, as amended in 2002 and 2011, continues to be in force, including the provisions related to the city of Cluj-Napoca, without, however, being implemented. The local authorities argue that since it is a regulatory act inferior to laws, this Government Resolution cannot amend the law. As mentioned above, we consider that this contradiction is only an apparent contradiction because Law No. 215/2001 provides a minimum threshold for

implementing minority rights, without prohibiting optional application under this limit of 20%. Moreover, there is a large Hungarian community of 50,000 people living in Cluj-Napoca.

170. With regard to the second issue, that is, disregarding the minority rights provided for in the legislation, there are some cases where the development of bilingualism has taken a negative turn, for example in the localities of Tigmandru and Tulgheș, where the names have been displayed in Hungarian and then removed later on.
171. Câmpia Turzii is a locality that is in a situation somewhere between these two cases. This is not included in the list (the proportion of the Hungarian minority is below 20%), but the local Council has decided to use trilingual boards (Romanian, Hungarian and German). Their decision was attacked by the prefect of the county, and the court declared this action admissible. After 2013, the name of the locality is displayed only in Romanian.
172. The interpretation used by the courts is restrictive and converges in the direction of not applying the national and international provisions on the use of the mother tongue in local administration and decentralized institutions in practice.

### **Public institutions which are required to ensure the use of the Hungarian language**

173. In practice, it is argued that the law should not be applied for the institutions of the local public administration or decentralized institutions. The institutions of the local public administration or the institutions under the local authorities state that they are not required to ensure the use of the Hungarian language.<sup>23</sup>
174. A further issue relates to the interpretation of the obligations of the institution of the prefect in connection with ensuring the use of the Hungarian language. Thus, at first instance, the Court of Appeal of Oradea, by Sentence No. 294 of October 2, 2012, required the Prefecture to ensure the use of the Hungarian language by translating its own webpage into this language, but at the appeal stage, the High Court of Cassation and Justice cancelled the Sentence delivered by the court in the first instance by Decision No. 5572/05.06.2013. The Court of Appeal of Brașov required the Prefecture of Covasna to ensure the use of the Hungarian language by translating its own webpage into this language by Resolution No. 58/F/2013.
175. It should be noted with concern the case-law of the courts, which interprets restrictively the group of local public institutions and decentralized institutions which are required to ensure the use of the Hungarian language. In the case of the **prefect**, we should point out that this office is regulated by the Constitution of Romania in Article 123 on **local public administration**, as the representative of the Government at local level, responsible for **running** the decentralized public services of the ministries and other bodies of the central public administration in the territorial administrative units. So, to the extent to which the prefect is not a functional part of the central public administration, but is the territorial representative of the Government and runs the decentralized public services, and is required to ensure the use of the mother tongue at the level of the local public authorities and decentralized institutions, and therefore, we **consider that it is elementary that the prefects themselves ensure the use of the Hungarian language in their own institution.**
176. The courts have double standards when they have to rule on the obligation to translate the homepages into Hungarian, as well, the judges argue that the law does not expressly provide for

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<sup>23</sup> See Resolution No. 223 of July 11, 2012, of the National Council for Combating Discrimination.

ensuring the communications in the virtual space or homepages in the minority language. In contrast, when the courts have to rule on the obligation to translate a newspaper printed in Hungarian on the webpage of a city hall, they argue that this obligation is applicable even for virtual communications. (See Civil Sentence No. 287/2013 of the Court of Appeal of Târgu-Mureş and Civil Sentence No. 600 of February 21, 2014, of the Court of Appeal of Bucharest).

**177.** The courts use double standards even for classes of information considered to be of public interest. Thus, when it comes to the obligation to publish the webpage of the Prefect of Covasna County, the court has argued that this obligation refers only to information of public interest, which should be communicated ex officio and not all information that are published in the official language on the webpage.

When it comes to the analysis of the obligation to translate a newspaper in Hungarian posted on the homepage of a city hall, the court has argued all information of public interest have to be translated into the official language of the state. (See Civil Sentence No. 287/2013 of the Court of Appeal of Târgu-Mureş and Civil Sentence No. 600 of February 21, 2014, of the Court of Appeal of Bucharest.)

**178.** The case-law of the courts fails to comply with relevant international standards. Thus, Civil Sentence No. 287/2013 of the Court of Appeal of Târgu-Mureş states that the prefect of Mureş County is not required to translate the information on the homepage of the institution into Hungarian, as well, and argues that “the information on the homepage of the Prefecture of Mureş County in the official language of the **state are addressed to both Romanians and Hungarians since all citizens are required to know the official language**” – Page 5.

The court makes the right to use the mother tongue (Hungarian) mandatory only in cases where the official language of the state is not known. **This interpretation constitutes an obvious denial of the right to use the Hungarian language and a measure with potential effect of ethnic assimilation of the Romanian citizens belonging to the Hungarian minority.**

**179.** However, in some circumstances the prefects are just those who prevent the implementation of the minority rights. For example, in Covasna County the prefect has initiated legal actions against some administrative units, but none of these actions refer to any case of violation of the minority rights, but have usually been aimed at restricting these rights (See Table – Annex 1).

**180.** Another false argument, invoked in practice, refers to the lack of legal personality of the regional representations of different ministries or central authorities.

Upon a letter initiated by the “Mikó Imre” Minority Rights Legal Aid Service and sent to all decentralized services of the six counties where an important proportion of the populations are Hungarians, the following decentralized services argued that they lack legal personality, and therefore, the lack of competence in deciding in matters related to minority rights.

**181. We propose/request:**

- a clear regulation to provide that any local public institution or decentralized institution, with or without legal personality, which exercise their powers in the regional competence of the administrative units where the proportion of a national minority reaches the legal threshold, are required to ensure the use of the Hungarian language;
- regulation of the communication in Hungarian on the websites of local public authorities and decentralized institutions;

**182. Aspects related to the percentage of the population belonging to the Hungarian minority necessary to apply the legal provisions concerning the use of the Hungarian language in administrative units**

183. We consider that the percentage of 20% of minority population of the total population in an administrative units, is very high and we propose to reduce it to 10%, arguing that a large proportion of the Hungarians in Romania live in settlements where their share is between 10% and 20% of the total population of the administrative units.
184. **We ask** for the introduction **an alternative threshold**, expressed in the number of people belonging to a national minority that would lead to mandatory display of inscriptions in the minority language and to ensure public services in this minority language. Thus, in localities where the number of citizens belonging to a national minority reaches 5,000, the local and the decentralized authorities should be required to display the name of the localities and the local and decentralized public institutions in two languages, and to ensure some minimum administrative services in the minority language.
185. Furthermore, in practice, we found that in administrative units where the proportion of the Hungarians is below 20% of the total residents, local public authorities fail to ensure the use of the Hungarian language on their own initiative, not even in problems which do not require major costs charged to the budget, such as displaying the name of the settlements in two languages (bilingual inscriptions). By the resolutions adopted, the courts fail to recognize the right of the local communities to decide and optionally grant the possibility to use the mother tongue in local government in cases where the share of the Romanian citizens belonging to the Hungarian minority is below 20%.
186. **When should the obligation to ensure the use of the Hungarian language apply? What does this obligation entail?**  
In practice, the use of the Hungarian language is refused at the level of administrative units when the Romanian citizens who are Hungarians know the official language of the state. Thus, the mayor of Târgu-Mureş who refused to provide a reply in a minority language, as well, to a Romania citizen who is a member of the Hungarian community, arguing that this person speaks Romanian, the language in which the reply was drafted, so he or she did not suffer any harm.<sup>24</sup> However, the Court of Appeal of Mureş County accepted the justification provided by the mayor and cancelled the NCCD decision establishing an act of discrimination by the mayor by repeatedly refusing to provide a reply in Hungarian, as well, to a Romania citizen who is a member of the Hungarian community.<sup>25</sup>
187. However, by Decision No. 6048/14.12.2011, the High Court of Cassation and Justice of Romania (HCCJ) cancelled Sentence No. 60/2011 of the Court of Appeal of Târgu-Mureş, arguing that the refusal of the mayor of Târgu-Mureş to provide a reply to a Romanian citizen of Hungarian origin in Hungarian (as well), constitutes a discrimination. Furthermore, HCCJ established finally and irrevocably that a Romanian citizen who is a member of the Hungarian minority has the right to use his or her mother tongue in the local public administration regardless of whether he or she speaks the official language of the state (Romanian).
188. There are situations where the use of the Hungarian language is regarded with hostility during the meetings of local or county councils. In 2014, there were tensions between the Hungarian council members, on the one hand, and the deputy mayor and some of the Romanian council members in Târgu-Mureş, on the other hand. They expressed their outrage on several occasions in connection with the use of the Hungarian language during the meeting, arguing that the translation is unnecessary and burdensome, and requested, with a hostile attitude, that all

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<sup>24</sup> See Decision No. 94/02.06.2010 of the National Council for Combating Discrimination

<sup>25</sup> See Sentence No. 60 of March 1, 2011, of the Court of Appeal of Târgu-Mureş - Department of Administrative Appeals

participants use the only official language of Romania. With regard to the types of public information that have to be communicated in the minority language, we should point out a misinterpretation in practice that this obligation covers only information of public interest which should be communicated ex officio and are expressly and restrictively specified in Article 5 of No. 554/2001.<sup>26</sup> It should be noted that the courts have double standards which require that all documents in Hungarian published on the webpage of a local authority be translated. (See Civil Sentence No. 287/2013 of the Court of Appeal of Târgu-Mureş and Civil Sentence No. 600 of February 21, 2014, of the Court of Appeal of Bucharest.)

**189. Allocation of human and financial resources to apply relevant legislation**

The most common reasons given to support the refusal to apply the legal provisions on the use of the Hungarian language at the level of administrative units are as follows: unfamiliarity with the law and lack of human and financial resources.

In many cases, the state doesn't have the funds necessary to ensure bilingualism in decentralized public institutions, but even where this would be possible free of charge, other obstacles occur. For example, the mayor of Miercurea Ciuc/Csíkszereda, Róbert Kálmán Ráduly was fined after he imposed the knowledge of the Hungarian language as a condition for occupying a position of chief architect of the city.

**190.** For the same reason, the majority of the decentralized public institutions have no homepages in Hungarian.

**191.** During the investigation by the National Council for Combating Discrimination, the lack of human resources, the impossibility to hire special staff and lack of funds have been given as reasons.<sup>27</sup>

**192.** With regard to **human resources**, it should be noted that at this time **there are no databases on the situation of civil servants who are qualified to work in Hungarian**, on the human resources needed and continuing training possibilities. We cannot accept the reasons given by the Romanian authorities that no statistics can be compiled on the base of the knowledge of minority languages without violating the principle of protecting personal data. These databases can be compiled pursuant to Articles 6 and 7 of Directive No. 95/46/CE of the European Parliament and the Council, that is, according to the provisions of Law No. 667/2001 on the protection of individuals with regard to the processing of personal data and the free movement of such data.

**193.** Case-law does not comply with the relevant international standards and tends to interpret the law in the sense that the hiring of civil servants is mandatory **only in public relations services, and not in positions which have duties and contacts with the public.**

**194.** The courts do not accept the condition related to the knowledge of the Hungarian language for occupying civil servant posts as an authentic and genuine professional requirement, starting from the false assumption that the Hungarian language may be spoken only by Romanian citizens belonging to the Hungarian minority. Therefore, the court considered that the requirement of being familiar with the Hungarian language and culture for occupying the post

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<sup>26</sup> See the justification provided by the Prefecture of Covasna County on page 2 of Decision No. 58/F/2013

<sup>27</sup> See NCCD Resolution No. 223 of July 11, 2013

of manager of the County Library of Covasna County is discriminatory (73% of the population of the County are Hungarians).<sup>28</sup>

195. For example, the worrying case-law of the courts: Sentence No. 53 of February 5, 2013, of the Court of Appeal of Târgu-Mureş, final and irrevocable, which establishes that requiring oral proficiency in Hungarian language for occupying the post of manager of a county hospital constitutes an act of discrimination. The court makes fundamental errors in the interpretation of the legislation in force when considers the Romanian language as minority language in Harghita/Harghita and Covasna/Kovászna counties, subject to the protection of the law, stating that imposing the knowledge of the Hungarian language at any level constitutes a violation of the rights of the Romanians to use their mother tongue before the local public administration; see Page 7 of the Sentence.
196. Furthermore, the court considered that the condition imposed by the local authority to speak Hungarian at an average level in order to occupy a job of general-secretary of a village hall where 70% of the residents are Romanian citizens of Hungarian origin, is a discriminatory condition – Decision No. 6324/25.09.2013 of the High Court of Cassation and Justice.
197. The actions of the Prefecture of Covasna County are worrying because the prefect instructed the City Hall in Băţanii Mari (Covasna County) to remove the text in Hungarian from the front of the building, “**Községháza**” that means “Village House”, a term traditionally and historically used in Hungarian communities; this inscription was made as early as 1905. Furthermore, there are actions to remove the Hungarian term “**City House**” or “**County House**”.
198. The lack of or insufficient funds in the budget of the public authorities **does not constitute an adequate argument to support the application of a discriminatory treatment**, in the sense of divestment of the constitutional right to have access to information of public interest in minority languages, including through homepages. The public authorities do not use the option of outsourcing services at all, intended to ensure the use of the Hungarian language in the administrative units.

#### **Monitoring, control and sanctioning failures to implement relevant legislation**

199. Romania has no effective procedures to monitor and control the implementation of the law on the use of the Hungarian language in administrative units. Romania failed to publish any regular (annual) report on the implementation of the law on the use of the Hungarian language in administrative units, which includes as follows: the number of cases where the Hungarian language has been used in writing or verbally, the number of civil servants who are qualified to work in Hungarian, the number of translated regulatory acts of local interest, the funds allocated for these activities, an analysis of the quality of services in Hungarian and proposals to improve these services.
200. Though the prefectures have legal powers to control and sanction cases where the law on the use of the Hungarian language in administrative units is not implemented, these institutions fail to verify this aspect, as well. For example, during the settlement of a petition submitted to the National Council for Combating Discrimination in August 2012, aimed at translating the homepages of over 60 local authorities, the Prefecture of Covasna County argued that the

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<sup>28</sup> See NCCD Resolution No. 775/2008, which remained final and irrevocable as a result of the Decision of the HCCJ.

aspects related to the failure to display communications and information of public interest in two languages, will be taken into account during future controls.

### **Implementation in practice**

- 201.** The data collected show that Romania fails to ensure the application of Article 10 of the Framework Convention. Thus, according to Resolution No. 223 of July din 11, 2012, of the National Council for Combating Discrimination, which analysed the obligation to translate the homepages of over 60 institutions and local authorities (such as publishing the decisions of these public authorities, translation of their forms and printed documents, and communications of public interest) during the settlement of a petition, it was established that all institutions have failed to comply with this legal obligation to ensure equal access to public information in Hungarian for Romanian citizens belonging to the Hungarian minority. The NCCD decided that the lack of a Hungarian translation of the homepages, which contain information of public interest on the activities of the prefects in Mureş, Satu Mare, Bihor and Sălaj counties, the county councils of Satu Mare, Bihor and Sălaj, the local public authorities of Covasna, Hăghig, Topliţa, Gălăuţaş, Tulgheş, Voşlobeni, Luduş, Adămuş, Albeşti, Băgaciu, Band, Breaza, Ceaşu de Câmpie, Cristeşti, Găneşti, Livezeni, Sâncraiu de Mureş, Sânpaul, Sărmaşu, Şincai, Voivodeni, Tăşnad, Arduş, Bogdand, Botiz, Căuaş, Cehal, Craidorolţ, Culciu, Halmeu, Micula, Odoreu, Oraşu Nou, Petreşti, Pir, Săuca, Urziceni, Vama, Viile Satu Mare, Marghita, Abrămuţ, Balc, Borş, Chislaz, Curtuiuşeni, Finiş, Tileagd, Cehu Silvaniei, Şimleu Silvaniei, Almaşu, Benesat, Crasna, Crişeni and Fildu de Jos constitutes an act of discrimination according to Article 2(1) of *GO No. 137/2000*, as revised.
- 202.** In another case NCCD found that 30 local authorities and decentralized institutions have failed to meet their obligation to display on their offices the name of the institutions in Hungarian, as well, and other 23 authorities and public services with offices in Sfântu Gheorghe, do not display the information or communications and/or their office hours or audience schedule in Hungarian, or display communications in two languages only partially, and some of them are displayed only in the official language (Romanian) – see NCCD Decision No. 244 of August 1, 2012.
- 203.** As regards street names, it should be noted that these are not translated by the local public authorities, and there is the case of the City Hall of Oradea, which has authorized changing the name of a street on the request of Romanian citizens just because this street was named after a figure of the Hungarian culture. Furthermore, the City Hall of Oradea changed the historic name of the Olosig/Olaszi Park to a name that is foreign to the history of this city. The names of streets, markets or alleys are not correctly translated into Hungarian. For example, the centre of Târgu-Mureş is named “**P-ţa Trandafirilor tér**”. A correct translation of “*Trandafirilor*” is “*Rózsák*”.
- 204.** In Covasna/Kovászna and Hargita/Harghita counties, local public authorities ensure displaying the name of the institutions in Hungarian in a proportion of over 90%. No forms are provided in Hungarian as well.  
In these two counties, decentralized public services ensure, in most part, that the name of institutions is displayed in two languages. However, decisions and public documents are not translated into Hungarian and no forms are provided in Hungarian. There is only one decentralized institution that translated its website into Hungarian.
- 205. Conclusions and proposals / requests**  
Based on the above, we note that Romania fails to fulfil its obligations in Article 10 of the Charter. We make the following proposals/requests to remedy this situation:

- to create a database that includes data such as:
  - the administrative units, which are required, by law, to ensure the use of the Hungarian language;
  - local public and decentralized institutions, which are required to ensure the use of the Hungarian language;
  - the statistic number of civil servants who are proficient in Hungarian / the level of linguistic proficiency; the of requests to use the Hungarian language;
- to draw up and publish a regular (annual) report on the use of the mother tongue in the administrative units;
- to draw up a Guide on the implementation of legal obligations to ensure the use of minority languages/Hungarian language;
- to create a catalogue with the Hungarian translation of forms and other printed documents used in the administrative units;
- to establish a special department within the National Agency of Civil Servants, which is to coordinate all issues related to ensuring human resources at the level of the administrative authorities to implement relevant legislation;
- mandatory introduction of subjects on the legal obligations related to ensuring the use of the mother tongue in the administrative units in the exam curriculum for the exams organized for attaining and advancing in public positions;
- a clear regulation, which provides that **any local public or decentralized institution, with or without legal personality, which exercises its powers exclusively within the field of competencies of territorial administrative units** where, if the proportion of citizens belonging to the Hungarian minority reaches the limit provided for by the law), **should be required to ensure the use the Hungarian language**;
- to reduce the proportion of a national minority of the total population of an administrative unit, required to compulsorily implement the provisions on the use of minority languages, from 20% to 10%;
- to introduce **an alternative threshold**, expressed in the number of people belonging to a national minority that would lead to mandatory display of inscriptions in the minority language and to ensure public services in this minority language. Thus, in localities where the number of citizens belonging to a national minority reaches 5,000, the local and the decentralized authorities should be required to display the name of the localities and the local and decentralized public institutions in two languages, and to ensure some minimum administrative services in the minority language;
- to implement a system of sanctions for non-compliance with the relevant legal provisions.

## **VII. Article 11 Media – general considerations**

### **Article 11 - Media:**

- 206. Paragraph 1.** *The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:*
- 207. Subparagraph (ii)** *to the extent that radio and television carry out a public service mission: to encourage and/or facilitate the creation of at least one radio station and one television channel in the regional or minority languages;*  
 - commitment unfulfilled –
- 208.** In Romania, there is no radio station that is funded by grants/funds by the Romanian state. There is no TV channel in Hungarian financed by the Romanian state.

209. *Subparagraph (b)(i) to encourage and/or facilitate the creation of at least one radio station in the regional or minority languages;*  
- commitment partially fulfilled -
210. *Subparagraph (c)(i) to encourage and/or facilitate the creation of at least one television channel in the regional or minority languages;*  
- commitment partially fulfilled -
211. *Subparagraph d) to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages;*  
- commitment partially fulfilled
212. *Subparagraph (e)(i) to encourage and/or facilitate the creation and/or maintenance of at least one newspaper in the regional or minority languages;*  
- commitment unfulfilled -
213. There is no Hungarian language newspaper financed or partly financed by the Romanian state.
214. *Subparagraph (f)(i) to cover the additional costs of those media which use regional or minority languages, wherever the law provides for financial assistance in general for the media;*  
- commitment partially fulfilled -
215. *Subparagraph (g) to support the training of journalists and other staff for media using regional or minority languages.*  
- commitment partially fulfilled -
216. *Paragraph 2. The Parties undertake to guarantee freedom of direct reception of radio and television broadcasts from neighbouring countries in a language used in identical or similar form to a regional or minority language, and not to oppose the retransmission of radio and television broadcasts from neighbouring countries in such a language. They further undertake to ensure that no restrictions will be placed on the freedom of expression and free circulation of information in the written press in a language used in identical or similar form to a regional or minority language. The exercise of the above-mentioned freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.*  
- commitment partially fulfilled -
217. *Paragraph 3. The Parties undertake to ensure that the interests of the users of regional or minority languages are represented or taken into account within such bodies as may be established in accordance with the law with responsibility for guaranteeing the freedom and pluralism of the media.*  
- commitment partially fulfilled -

### Analysis

**218.** Though in Romania both national TV and radio stations have several broadcasting channels, high-performance equipment and adequate material and human resources, the Hungarian editorial teams most often receive insufficient support, are disadvantaged and confronted with many difficulties in their daily activities.

#### **National / public TV – TVR**

**219.** The national Romanian TV currently has five national broadcasting channels (TVR1, TVR2, TVR3, TVR International and TVR HD) and five regional studios (in Cluj, Timișoara, Târgu Mureș, Iași and Craiova).

**220.** Though the number of channels is more than enough, the number of broadcasts in Hungarian is very low. As a general finding, it should be mentioned that broadcasts in minority languages are far from being broadcast during prime time, and they are programmed for periods with minimum audience, for example, during mid-day or very late at night. Furthermore, it can be stated that the national TV tries to make programs dedicated to national minorities, but ignores any proportional representation, positive discrimination or even numerical criteria.

“Maghiara de pe unu” (“Hungarian on Channel 1” – TVR1)

- Monday edition and Tuesday edition, respectively: 3:30 PM to 5:00 PM (each edition has an actual duration of 78 minutes)

- From Thursday to Thursday: 1:00 PM to 2:00 PM (actual duration: 48 minutes)

“Cultura minorităților” (“Culture of minorities” – TVR 2)

- Thursday edition and Friday edition, respectively: 2:30 PM to 3:00 PM (each edition has an actual duration of 24 minutes)

Furthermore, the team of the Hungarian Department also makes a selection of own programs for TVR Târgu Mureș on each Wednesday.

**221.** According to the schedule of TVR, the Hungarian Department produced a total number of 300 minutes each week for TVR 1, TVR 2 and TVR 3 in 2013, and the Hungarian broadcasts have the abovedescribed program. Furthermore, the team of the Hungarian Department also makes a selection of own programs for TVR Târgu Mureș on each Wednesday.

**222.** Compared to 2012, when the broadcast time of Hungarian programs was 245 minutes per week, this allocated broadcast time has been increased to 300 minutes/week. This time has been increased as a result of a restructuring plan of the SRTV, when TVR Info and TVR Cultural have been abolished and the broadcasts have been regrouped. Unfortunately, broadcast times continue to be far away from prime time. Moreover, the fragmented programming of Hungarian broadcasts renders impossible the broadcast, for example, of theatre plays and movies since their duration exceeds the broadcast times allocated for Hungarian broadcasts.

#### **Regional studios**

**223.** The broadcast area of TVR CLUJ covers the North-West region of the country, however, regional programs are broadcast via an analogue network, completely obsolete for the 21<sup>st</sup> Century, when no one uses classic TV antenna. The existence of regional broadcasts in cable TV programs cannot be verified and the national TV has no relevant data, and therefore, it is impossible to determine the number of viewers/end users of specific broadcasts, and this is also true to national minorities.

- 224.** Programs in Hungarian language of the Cluj regional studio can be watched on a daily basis, from Monday to Saturday between 4:00 PM and 5:00 PM, and thus, Hungarian viewers have an hour to watch broadcasts in their mother tongue each day.
- 225.** The broadcasts of Târgu-Mureş regional studio should be possible to watch in the counties of Szeklerland, but in this case, broadcasting is made difficult by the abovementioned technical reasons. However, it can be said with certainty that the duration of broadcasts in the mother tongue of the Hungarian community in Szeklerland is nowhere proportional to percentage share of the Hungarian population in this region. Taking into account that the broadcasting area of the Târgu-Mureş regional studio includes Mureş county (36.46% Hungarians), Harghita county (82,9% Hungarians) and Covasna county (71.59% Hungarians), compared to these data, the Târgu-Mureş regional studio allocates only an hour a day for programs in Hungarian language from Monday to Friday between 5:00 PM and 8:00 PM, and two hours on weekend days, in the morning, between 8:00 AM and 10:00 AM.
- 226.** The broadcasting area of the Timișoara regional studio includes the Banat region, and broadcasts only one program a week in Hungarian with duration of 50 minutes.
- 227.** The TVR3 studio has been established some years ago to take over broadcasts of regional studios and to broadcasts programs in Romanian and minority languages. However, even from its establishment, the broadcasts in Hungarian language have been programmed at unfavourable hours. The program in Hungarian of the studio in Bucharest, entitled “All together”, is broadcast on Friday from 11:50 AM (actual duration: 48 minutes), the Hungarian team in Cluj broadcasts on Tuesday and Thursday for 50 minutes between 11:50 AM and 12:40 AM, the team in Târgu-Mureş on Monday, from the same time, and the studio in Timișoara on Wednesday.
- 228.** In conclusion, it can be stated that the only national TV schedules programs in Hungarian language in the very early hours of the afternoons when the majority of the audience are pensioners.

### **National Radio Studio**

- 229.** The Romanian Society of Radio Broadcasting has a significant number of frequencies with national coverage that can be accessed on short, medium and long wave bands as well as online (Radio Romania Actualități, Antena Satelor, Romania Cultural, Romania Muzical, Romania Internațional, Radio Chișinău, eTeatru.ro, Radio 3 Net "Florian Pittiș", Teatrul Național Radiofonic). As regards the broadcasting area of the regional studios, the offer is very rich (Romania Regional, București FM, Radio Cluj, Radio Constanța, Radio Vacanța, Radio Craiova, Radio Iași, Radio Reșița, Radio Târgu Mureş, Radio Timișoara). However, compared to this large and varied offer of studios and programs, the number of broadcasts in Hungarian is poor in this case too.
- 230.** Nevertheless, the situation of radio studios has been even poorer than the situation of TV channels. A change has occurred only in the spring of 2013, when, after many discussions and negotiations, the studio in Târgu-Mureş started to broadcast on two separate frequencies, in Romanian and Hungarian, respectively. However, until the spring of that year, the two editor teams shared a single broadcasting frequency, which had made forming a radio listening custom overwhelmingly difficult since the broadcasts in these two languages had been frequently changed during the same day. This type of distribution of programs was not beneficial to either of the parties, and therefore, two separate frequencies have been introduced and the technical conditions have been created necessary for broadcasting in Romanian and Hungarian languages on separate frequencies.

- 231.** The total duration of programs on the frequency for broadcasting in Hungarian language is 16 hours per day, however, the technical conditions are met only in a proportion of 50%. The regional studio in Hungarian in Târgu-Mureş covers four counties: Mureş, Harghita, Braşov and Covasna. Nevertheless, in Covasna County, for example, with a large Hungarian community, the broadcasting on short wave band is not operational. In this modern age of radio broadcasting, the international trend is to abandon medium and long wave bands. An example to this is the case of new motor vehicles which are equipped with radio only for ultrashort waves. For this reason, for Târgu-Mureş regional studio broadcasting in Hungarian the biggest challenge has been to extend and improve the coverage quality on ultrashort waves. This finally happened in 2015 and 2016.
- 232.** As regards the national radio, the situation continues to be serious for Hungarian listeners in counties in central Transylvania, Partium and Maramureş regions. Although the broadcasting of the Cluj Radio studio is divided into several frequencies, with alternating broadcasts in Romanian, Hungarian or other minority languages, the greatest problems are technical problems: the coverage of the eight counties (Cluj, Satu Mare, Sălaj, Bihor, Bistriţa-Năsăud, Alba and Sibiu) on medium wave is 60%, while on short wave is only 23%.
- 233.** Cluj Radio studio broadcasts in Hungarian for seven hours a day, but this time is still too short compared to the share of the Hungarian population in this region (where 34% of the Hungarians in Romania live). Therefore, a correct solution would be, in this case too, to separate the broadcasting frequencies, like in the case of the Târgu-Mureş regional studio. The broadcasts in Hungarian are currently divided as follows: twice a day from Monday to Friday, between 6:00 AM and 8:00 AM and 3:00 PM and 6:00 PM 2:00 AM and 4:00 AM, on Saturday between 8:00 AM and 10:00 AM, and on Sunday between 2:00 PM and 4:00 PM. After long negotiations, at the end of 2015 it was decided, like in the case of the Târgu-Mureş studio, to broadcast the programs in Romanian and minority languages on two separate frequencies. This has not been achieved so far (the middle of 2016).
- 234.** The Timişoara regional studio, with a broadcasting area covering the Banat region, broadcasts on medium wave only one hour a day in Hungarian; the same rule is true for the broadcast in Hungarian of the radio studio in Bucharest.

### **Conclusions**

- 235.** The conclusions below are generally true for the Hungarian editorial teams both in radio and TV stations:
- The editorial teams of national minorities have no autonomy at all, and administratively they have no own powers or material resources. All these aspects depend on the central management in Bucharest, which creates great difficulties for regional stations in carrying out activities in optimal conditions. The best solution would be guaranteeing an independent legal status for these regional editorial teams, allocating a reasonable own budget which takes into account the duration of the broadcasting and the specific needs of each station.
  - There is a total lack of specific training in the minority language. Continuous and permanent training in Hungarian is also required.
  - There ratings of minority programming are not measured either by the National Radio Society (NRS) and the Romanian Television Society (RTS). There is a single relevant survey in connection with the ratings or preferences concerning the shows broadcast by NRS and RTS in minority languages.

- It can be concluded that Romania complies only partially and in a formal and superficial manner with the provisions of the European Charter of Regional and Minority Languages, especially in relation to informing the public through the media.

<b>Example for the TV programs in 2012 Channel</b>	<b>Title</b>	<b>Day</b>	<b>Hour</b>	<b>Duration</b>	<b>Note</b>
<b>TVR 1</b>	The Hungarian language on Channel 1	Monday/Thursday	3:30 PM to 5:00 PM/ 4:00 PM to 5:00	90 min /60 min	-
<b>TVR 2</b>	The Hungarian language on Channel 2	Thursday	2.35 PM to 3:35 PM	60 min	Together across Europe
<b>TVR 3</b>	The Hungarian language broadcast on Friday	Friday	11:50 AM to 12:45 PM	50 min	Together

**236.** As regards the request of the Committee in paragraph 582 on the information concerning the manner in which this provision related to the Hungarian language is implemented, the list in the official report is incorrect in terms of the publications (newspapers and magazines) in Hungarian as partially funded by the state. This list includes publications that have not been operational at the date mentioned, and the state funding is inexistent.

**237.** Nevertheless, one of the initiatives of the Ministry of Culture, Kelemen Hunor, made in 2010, has not been mentioned when an amount of RON 2,500,000 was allocated from the reserve fund of the Romanian Government to support Hungarian and Romanian cultural magazines. Until 2014, Hungarian cultural magazines such as Helikon, Látó, Korunk, Székelyföld, Várad and Cimbora were granted government funds.

#### **X. Article 12 – Cultural activities and facilities**

**238.** *Paragraph 1 - With regard to cultural activities and facilities – especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including inter alia the use of new technologies – the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:*

**239.** *Subparagraph a) to encourage types of expression and initiative specific to regional or minority languages and foster the different means of access to works produced in these languages;*

**240.** The Romanian authorities underfinance the culture of the Hungarian minority in Romania. State funds allocated to culture (by the central or local governments) do not achieve the threshold of 6.5%, as high as the Hungarian speaking community is in Romania. In Cluj-Napoca, where the largest number of Hungarians live, only the Hungarian theatre ensures the conditions for Romanian and English subtitles, no other cultural institution is offering any translations. All communication related to cultural activities by the County Councils and Local Councils in Transylvania, where the Hungarian community lives is done only in Romanian language. Exception is Hargita and Covasna counties, where Hungarians live in majority. As an example, at

the cultural days of Cluj-Napoca, organised by the town council, no Hungarian leaflet is produced, nor in printed form, nor on the web. In the Museums no information is available in Hungarian language, except the two counties, and Mureş County.

- 241.** Although there is a decree of the Minister of Culture from 2014, only about 100 monuments (out of more than 6000 belonging to the cultural heritage of the Hungarian minority) are marked in Hungarian.
- 242.** There is a programme set up by the former Minister of Culture, Hunor Kelemen, to support periodicals, among them ones in Hungarian language. Unfortunately, the number of Hungarian periodicals financed is extremely limited, due to the fact that it is the current Minister's decision which publications receive financing, and that decision is usually not favourable to the ethnic minorities.
- 243.** *Subparagraph b) to foster the different means of access in other languages to works produced in regional or minority languages by aiding and developing translation, dubbing, postsynchronisation and subtitling activities;*
- 244.** There is no state programme to finance the translation of literary works from/to Hungarian, nor are these translations encouraged, by supporting publishers to order such services. At the international book fairs Romania does not present books published in minority languages. Writers, poets creating in minority languages are not promoted in Romania or abroad by the state.
- 245.** *Subparagraph c) to foster access in regional or minority languages to works produced in other languages by aiding and developing translation, dubbing, post-synchronisation and subtitling activities;*
- 246.** The state does not finance translation of works from other languages, nor does support publishers to do so. Films are not dubbed or subtitled in Hungarian, only the ones in the Hungarian television channels.
- 247.** *Subparagraph d) to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;*
- 248.** Intercultural dialogue is not encouraged by the Romanian state, nor are specific programmes financed which promote the parallel use of languages. In Transylvania, there are events dedicated to the Romanian community, where no Hungarian language is spoken, regardless of the percentage of Hungarian speaking community living in the area.
- 249.** *Subparagraph e) to promote measures to ensure that the bodies responsible for organising or supporting cultural activities have at their disposal staff who have a full command of the regional or minority language concerned, as well as of the language(s) of the rest of the population;*
- 250.** At the different cultural events, organised by the authorities in Transylvania, no measures are taken to ensure the use of Hungarian language. No translation is provided, no staff trained to

carry out this task. No communication is provided, whatsoever, in Hungarian, except the counties mentioned above.

- 251.** *Subparagraph f) to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities;*
- 252.** The facilities provided for the Hungarian community to organise events are often restricted to spaces of secondary importance, or banned from public areas. A clear example happened at Târgu-Mureş, where the Forgatag, a major cultural event organised by the Hungarian community was banned from being held in the centre of the town.
- 253.** *Subparagraph g) to encourage and/or facilitate the creation of a body or bodies responsible for collecting, keeping a copy of and presenting or publishing works produced in the regional or minority languages;*
- 254.** Although the National Library of Romania keeps copies of documents of the national minorities, beyond the collection activities usually carried out by national libraries no other body financed by the Romanian state is collecting any materials published in Hungarian (audiovisual materials and publication of works in Hungarian). The Hungarian minority is able to fulfill this task, but the Romanian state should finance this activity.
- 255.** *Subparagraph h) if necessary, to create and/or promote and finance translation and terminological research services, particularly with a view to maintaining and developing appropriate administrative, commercial, economic, social, technical or legal terminology in each regional or minority language.*
- 256.** There is a lack of administrative terminology in Hungarian, as a result of which civil servants often use Romanian. No relevant terminological research appears to take place.
- 257.** There are no measures taken to promote and finance translation and terminological research services with a view to developing appropriate administrative, technical or legal terminology in Hungarian. No forms are provided by the local authorities in Hungarian, and we can not use our mother-tongue in local administration, or any local institutions, except Harghita and Covasna counties.
- 258.** *Paragraph 2- In respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage and/or provide appropriate cultural activities and facilities in accordance with the preceding paragraph.*
- 259.** There are very few events supported by the state: National Minorities Day, the Minority Theatre Festival and the Interethnic Film Festival, but the Hungarian language has not benefited from them. There is no real wish from the state to make known the culture of the minorities to the citizens of the country, and the very existence of the minorities is not considered by the state as an asset. The budget and the size of this events does not come even close to the 6.5% threshold of the Hungarian community in Romania.
- 260.** *Paragraph 3 - The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.*

**261.** As stated above, Romania does not promote the artists creating in Hungarian. At the international book fairs, cultural festivals where Romania is represented the culture of the Hungarian minority is totally absent. The cultural heritage of the Hungarian minority is not promoted by Romania at all, either at international fairs, either in publications. For example, at the UNESCO nominations for intangible cultural heritage, songs and dances belonging to the Hungarian community were presented as Romanian, so there is no acknowledgement of our culture at international level, due to the lack of presentation by the Romanian authorities.

## **XI - Article 13 – Economic and social life**

### **General considerations**

- 262.** As regards economic and social activities, Romania has ratified the European Charter of Regional and Minority Languages by Law No. 282/2007, which, in relation to the Hungarian language, in Article 13(1) requires the state to ensure general and legal conditions to use the Hungarian language relating to economic and social life, while paragraph (2) requires the state to define rules on economic, social, financial and banking activities to use Hungarian language at the level of public authorities in areas where regional or minority languages are used.
- 263.** In its report for 2012, the Committee of Experts notes that in areas relevant to paragraph (1), the initial regular report contains no specific information on the application of these provisions, and therefore, it calls on the Romanian authorities to provide specific information in the next regular report on the manner in which these provisions have been applied for the Hungarian language.
- 264.** In relation to paragraph (2), the Committee of Experts does not have a clear picture of the practical measures taken by the public authorities to ensure the implementation of these provisions in all areas where Hungarian language speakers are in a significant number and in social assistance facilities such as hospitals, asylums and retirement homes.
- 265.** In the second Regular Report submitted by the Romanian Government in 2016, the Government states that according to the information transmitted by the Democratic Alliance of Hungarians in Romania, in regions where the Hungarian community has a significant demographic share, such as Covasna/Kovászna, Harghita/Hargita, Mureş/Maros, Sălaj/Szilágy, Bihor/Bihar and Satu Mare/Szatmár/Sathmar, the use of Hungarian language is widespread in civil society. However, the request made by the Committee of Experts remained without answer because the report failed to provide the specific information required on the manner in which these provisions have been implemented for the Hungarian language.
- 266. Paragraph 1** *With regard to economic and social activities, the Parties undertake, within the whole country:*
- 267. Subparagraph (a)** *to eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment, and in technical documents such as instructions for the use of products or installations;*
- 268.** According to the Report submitted by the Government, “*the Romanian legislation contains no provisions prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment...*”. After an analysis of the Article 16 of the Code of Labour (Law No. 53 of 24

January 2003), a legal contradiction is immediately apparent: *“The individual contract of employment should be concluded on the basis of the consent of the parties, in writing, in Romanian.”*

- 269.** As regards the instructions for use of products or technical equipment, the use of the Hungarian language is not guaranteed or promoted in the legislation. **Law No. 95 of 14 April 2006 on health care reform** specifies only the conditions in which Romanian language should be used: **Article 773(2)** *“The package leaflet must be written and designed to be clear and understandable, enabling the users to act appropriately, when necessary with the help of health professionals. The package leaflet must be clearly legible in Romanian. Article 773 alin. (3)* *“When the medicinal product is not intended to be delivered directly to the patient, ... the National Agency for Medicines and Medical Devices may... grant a full or partial exemption to the obligation that the labelling and the package leaflet must be in Romanian”*. These provisions do not prevent the package leaflet from being printed in several languages (provided that the same information is given in all the languages used), but they do not promote multilingual labelling, either.
- 270.** Several documents relating to economic or social life, such as driving licences, sales contracts (for sales of real estate and motor vehicles), identity cards of motor vehicles, diplomas and certificates issued by authorities, health care cards, medical certificates, army certificates, economic certificates, are issued and valid exclusively in Romanian.
- 271.** For persons with disabilities, the annual health check-up is organized only in Romanian, and the documents and medical records are drawn up exclusively in Romanian, as well. The DAHR parliamentary group in the Chamber of Deputies has initiated the amendment of Law No. 95 of 2006 on health care reform as regards the employment of specialized health care staff who speak minority languages in administrative units where the proportion of citizens belonging to a national minority exceeds 20% of the residents. The scope is to create an institutional mechanism to guarantee that patients can effectively exercise their right to communicate in their mother tongue by ensuring the use of this tongue during the entire consultation, not just as regards the communication of important information.
- commitment unfulfilled -**
- 272.** *Subparagraph b)* to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;
- 273.** The Report of the Government for 2016 contains no information on the manner in which the provisions of subparagraph (b) have been applied for the Hungarian language. There are no statistics or official statements on the internal regulations of public institutions and enterprises. In practice, the majority of the Romanian companies use only Romanian in their official internal written communication although the Law No. 31/1990 on companies, which is considered the basis of the entrepreneurial life and commercial law, contains no regulation to prohibit the insertion of any terms and conditions in the internal regulation of the companies and private documents that exclude or limit the use of Hungarian language.
- 274.** According to the Government Report, if this obligation is not fulfilled, the victim can address the National Council for Combating Discrimination. Even if this is a welcomed possibility, our view is that this is not a clear commitment by the state to prohibit *“the insertion in internal*

*regulations of companies and private documents of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language”.*

**- commitment unfulfilled -**

**275.** *Subparagraph (c) to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;*

**276.** The Country Report for 2016 contains no information on the manner in which the provisions related to the use of the Hungarian language have been applied. There is no legislation by which the state would oppose practices that tend to discourage the use of regional or minority languages in economic and social life; however, as can be seen in Section 8 of this Report (relating to Article 13 – Economic and social life), the legislation encourages only the use of the Romanian language in economic and social life. We consider these regulations to be a direct and unjustified limitation of the use of the Hungarian language.

**- commitment unfulfilled –**

**277.** *Subparagraph d) to facilitate and/or encourage the use of regional or minority languages by means other than those specified in subparagraph (c).*

**278.** The Report drawn up in 2016 contains no information on the manner in which the provisions related to the use of the Hungarian language have been applied. There is no legislation to facilitate and/or to encourage by other means the use of the Hungarian language.

**279.** Although the European Charter of Regional and Minority Languages has been ratified by Romania, the information about linguistic rights of minorities and the obligations made by Romania are not presented in the press or published by the authorities, and are not available to the general public and the authorities. In the majority of cases, citizens belonging to national minorities, in this case the Hungarian community are not aware of their rights related to the use of their mother tongue. Not even basic information is provided about the rights of minorities, for example in school handbooks.

**- commitment unfulfilled –**

**280.** *Paragraph (2) With regard to economic and social activities, the Parties undertake, in so far as the public authorities are competent, within the territory in which the regional or minority languages are used, and as far as this is reasonably possible.*

**281.** *Subparagraph (c) to ensure that social care facilities such as hospitals, retirement homes and hostels offer the possibility of receiving and treating in their own language persons using a regional or minority language who are in need of care on grounds of ill-health, old age or for other reasons.*

**282.** There has been an improvement in the use of the Hungarian language in decentralized social institutions, but there is no specific legislation to guarantee the use of the Hungarian language in these institutions in practice. There are no courses, seminars or workshops organized by these institutions for their own personnel to become familiar with the Hungarian terminology in social institutions and to improve the use of the Hungarian language.

**283.** In practice, in order to receive social assistance from the state, all forms to be filled out are drawn up exclusively in Romanian, although in regions where the demographic share of the Hungarian community is significant, and majority of the disadvantaged families are Hungarians.

There is a similar situation in the health system, the Pension Fund system and the social housing sector too: requests, prescriptions and medical records are drawn up only in Romanian.

284. There are no information in Hungarian related to the registration of children with disabilities in the education system and the social assistance that can be accessed from the state. Disadvantaged families receive answers only to applications submitted in Romanian. These examples reveal that the information for disadvantaged families is available only if someone explains the content of the documents or they are helped in drawing up the documentation, as appropriate.
285. The situation of the Hungarian persons with disabilities is solved only in Covasna/Kovászna, Harghita/Hargita and partially Mureş/Maros counties. In the other counties, the education, integration of and care for these persons in public institutions is ensured only Romanian. For this reason, there is an attempt to provide these services through private or religious entities, taking into account that private entities receive only a quarter of the funds granted to public institutions for the same services.
286. The problem of training the personnel who care for the people with disabilities cannot be considered to be solved. The accreditation of courses is carried out only in Romanian, and for this reason, course materials must be drawn up in Romanian. In practice, it depends on the teacher whether the teaching language is Romanian or Hungarian.
287. Only the county hospitals in Covasna/Kovászna and Harghita/Hargita counties have websites in Hungarian language.  
**- commitment partially fulfilled – Hungarian can be used only in oral communications and only where the Hungarians are in majority.**
288. **Subparagraph (d)** *to ensure by appropriate means that safety instructions are also drawn up in regional or minority languages;*
289. The Country Report for 2016 contains no information on the manner in which the provisions of the Charter have been applied for Hungarian. There is no legislation to ensure by appropriate means that safety instructions are also drawn up in regional or minority languages. In practice, there may be isolated and irrelevant cases where some safety instructions are also drawn up in Hungarian, without, however, these being supported by legislation.  
**- commitment unfulfilled –**
290. **Subparagraph (e)** *to arrange for information provided by the competent public authorities concerning the rights of consumers to be made available in regional or minority languages.*
291. The Country Report for 2016 contains no information on the manner in which the provisions have been applied for Hungarian. There is no legislation to arrange for information provided by the competent public authorities concerning the rights of consumers to be made available in regional or minority languages. In practice, there may be isolated and irrelevant cases where some information concerning the rights of consumers are also drawn up in Hungarian, without, however, these being supported by legislation.  
**- commitment unfulfilled –**

### **Conclusions**

292. The provisions of Article 13 of the Charter have been partially fulfilled, in practice the use of the Hungarian language is not ensured in health care and social services.  
The use of the Hungarian language is not ensured in the information concerning the rights of consumers or related to safety instructions or hazard statements.

## X. Article 14 Cross-border exchanges

### Analysis by points

#### Article 14 - Cross-border exchanges:

293. **Paragraph (a)** *to apply existing bilateral and multilateral agreements which bind them with the States in which the same language is used in identical or similar form, or if necessary to seek to conclude such agreements, in such a way as to foster contacts between the users of the same language in the States concerned in the fields of culture, education, information, vocational training and permanent education;*
294. **Paragraph (b)** *for the benefit of regional or minority languages, to facilitate and/ or promote co-operation across borders, in particular between regional or local authorities in whose territory the same language is used in identical or similar form.*
295. There are bilateral agreements on cross-border exchanges and a number of collaborations between local authorities. The funds allocated for these activities are insufficient.

## XI. Article 6. Information

296. The Parties undertake to see to it that the authorities, organisations and persons concerned are informed of the rights and duties established by this Charter.
297. There are no information materials or campaign about the rights and obligations set out in the Charter.

### **General conclusions**

298. The European Charter of Regional and Minority Languages constitutes one of the most important international legal instruments to ensure the right to use of the mother tongue, as a basic component of the right to preserve, develop and express ethnic identity.
299. This material shows that Romania does not have **a systematic and consistent approach** to ensure the effective implementation of the Charter in practice and infringe the linguistic rights of Romanian citizens belonging to the Hungarian minority.

Thus, Romania failed to create a monitoring and control system of the application of the rights in the Charter and to appoint authorities of the state with responsibilities in this area or where measures have been taken to this end, these authorities fail to meet their legal obligations. There is no system of sanctions for failing to apply the linguistic rights, or this system is not implemented and fails to meet the minimum international standard of being effective, proportional and dissuasive.

300. The period analysed shows a significant setback in the application of the language rights of the Hungarian community, manifested, in particular, by:
- refusal to apply the relevant legislation;

- restrictive and excessive interpretation of the legislation by the authorities and the courts, so that the language rights cannot be exercised;
- application of a double standard in the practice of the authorities and the justice, so that the use of the Hungarian language is eliminated;
- refusal by public authorities to have a dialogue about the progress in the implementation of the Charter and lack of transparency;
- lack of databases to collect and publish data – No Data No Progress;
- drawing up, publishing and debating some relevant reports;
- lack of a monitoring and sanctioning system.

**301. In education (Article 8)** – the Romanian legislation and its interpretation cannot effectively and efficiently guarantee the obligations in the European Charter of Regional and Minority Languages. In the absence of some clear internal laws, the use of the Hungarian language in the relations with the education institutions continues to be uncertain, and allows each head of institution to decide alone whether they implement the provisions related to the Hungarian language or not.

Furthermore, as we have already shown, Romania presents a series of deficiencies and shortcomings in the practical implementation of the mandatory legal provisions on the education in Hungarian language. One of the most obvious abuses is the case of the University of Medicine and Pharmacy in Târgu-Mureş.

**302. In justice (Article 9)** – Romania fails to ensure the use of the mother tongue in the access to justice in civil and administrative proceedings. Furthermore, there is no strategy for training civil servants in justice in order to ensure the human resources required to provide services related to the use of the Hungarian language.

The main organic laws passed during the last years have not been translated into Hungarian.

**303.** One of the biggest deficiencies in justice is the lack of official national data on compliance with the legislation on minority rights, and the absence of these data prevents us to evaluate the application of the legislation in this case. In our view, the lack of monitoring of the manner of implementation, by the lack of information itself and the reluctance of the state to take note of the compliance or non-compliance with the relevant legal provisions, leads to a breach of the obligations to effectively guarantee the rights listed in the Charter and the ratifying law.

**304.** At the level of **administrative and public authorities (Article 10)** – the interpretation of the law is restrictive and the use of the mother tongue is not ensured in this area. The use of the Hungarian language is ensured in general only by local public authorities headed by Romanian citizens who are members of the Hungarian minority.

The prefects have taken a number of measures to prevent or limit the use of the Hungarian language in local public administration.

The vast majority of the decentralized public authorities fail to ensure the use of the Hungarian language.

**305.** As regards **media (Article 11)** – justice prevents the financing of newspapers in Hungarian by public authorities, but require them to concomitantly translate them into the official language of the country.

**306.** The state fails to ensure a minimum standard framework in order to ensure media in Hungarian language, for example:

- There is a total lack of specific training in the minority language. Continuous and permanent training in Hungarian is also required.
- There ratings of minority programming are not measured by the National Radio Society (NRS) and the Romanian Television Society (RTS). There are no relevant surveys in connection with the ratings or preferences concerning the shows broadcast by NRS and RTS in minority languages.
- It can be concluded that Romania complies only partially and in a formal and superficial manner with the provisions of the European Charter of Regional and Minority Languages, especially in relation to informing the public through the media.

**307.** As regards **cultural activities and facilities (Article 12)** – the use of the Hungarian language is not ensured and no reasonable funds are allocated for this purpose, this:

- the representation of minorities in cultural institutions is far below the proportional level of 6.5%, so the Hungarian minority has no chance of participating in the programming and implementation of the state's policies in culture;
- the funds intended for cultural activities are dramatically low compared to the needs;
- research in culture (such as archaeology, art history, linguistic or musicology) is not financed proportionally to the size of this minority;
- cultural heritage of the Hungarian minority in Romania is abandoned and the access to funds intended for this activity is very limited;
- the cultural institutions, in insufficient number and with too few specializations, are underfinanced, as well;
- an insufficient number of literary works have been translated so far, which has resulted in the marginalization of the culture of minorities and the almost complete lack of understanding and acceptance of these minorities have led to the absence of an interethnic cultural dialogue;

**308. Economic and social life** – the provisions in **Article 13** of the Charter have been partially met, in practice the use of the mother tongue is not ensured in health care and social services. The use of the Hungarian language is not ensured in the information concerning the rights of consumers or related to safety instructions or hazard statements.

**309. Cross-border exchanges (Article 14)** – this requirement have been partially met, but there is no financing of the activities regulated by this section.

**310. Information (Article 6)** – this activity is missing completely, the Romanian state failed to promote any information campaign about this Charter.

**311.** The applicant organization has found that Romania fails to meet the obligations undertaken by ratifying the Charter related to the use of the Hungarian language. In this regard, we call on the Council of Europe to take all measures to ensure that Romania effectively implements the provisions of this Charter for the Hungarian language.

We also call on the Romanian authorities to consider and implement the recommendations in this document in order to meet their obligations undertaken through this Charter and to initiate a dialogue with the representatives of the Hungarian minority to this end.