



Sabine Riedel

Ukraine in Conflict of National Identity

The Rights of the Russian-speaking Population were and remain essential for Peace ¹

“Andrij Waskowycz: The war [in Donetsk and Lugansk] is being suppressed because there are no solutions to the problems that this war brings with it. There is no idea of how to end this war. And it claims new victims every day. People are killed by shelling or by exploding mines. The buffer zone, where the war is taking place, is the second most heavily mined region in the world. Because of this, people in the buffer zone cannot cultivate their land. They live there in a constant state of emergency. They have difficulties meeting their basic needs for food and healthcare. The children find it difficult to reach school, they often have to walk a long way. In addition, they have also seen a lot of violence or been under fire for days and witnessed bombings in basements. ...” (Quote from an interview with the president of Caritas Ukraine, in: [Caritas International: 23](#))

According to this quote, the war in Ukraine did not start on 24.2.2022 with Russia’s military intervention. The armed conflict in eastern Ukraine, in Donetsk and Lugansk, has been smouldering for eight years. [OSCE reports](#) regularly complained about violations of the Minsk ceasefire agreement, which was concluded on the 14.2.2015 under the auspices of Russia, France and Germany. After that, rebels and Ukrainian government troops destroyed civilian infrastructure. But German media hardly reported on the suffering of the approximately 3 million people in eastern Ukraine and the 1.5 million refugees, as was documented as early as 2019. Already two years ago, “the greatest humanitarian catastrophe in Europe since the Second World War” became apparent ([Caritas International 2019](#)).

Instead of working on peace concepts, German politicians discussed arms deliveries to Ukraine even before the Russian invasion began. By taking sides in the conflict, they undermined the Minsk agreements. They damaged the longstanding efforts of the OSCE mission and thus brought down Europe’s own peace initiative. Such a U-turn can only be understood in a larger security policy context in which not only Russia but also influential NATO member states want to assert their interests. The German and international public is currently being kept completely in the dark about this. They are made to believe that only Russia is responsible for the fate of Ukraine.

The core statements of this article were published weeks before the outbreak of the war ([Topic in Focus 2/2022](#)). It describes the inner-state conflict lines that were the decisive reason for the escalation. The Ukrainian government still refuses to give the Russian-speaking population in eastern Ukraine the human rights protection to which it has committed itself as a member of the United Nations and the Council of Europe as well as through the Minsk Agreements. That is why the separatists insist on their statehood. The parallels to the Kosovo war in early 1999 are obvious. But at that time, the NATO countries provided military assistance to the Albanian minority, while today they support the central government in Kyiv unreservedly. Their military-strategic doctrine has thus undergone a 180-degree turn. Western democracy-based values are obviously in danger of drifting into the arbitrary.

¹ This analysis is a translation from German and is also available in Russian with the Ukrainian source texts, cf. the journal issues FPK 4/2022 and 6/2022.

Prof. Dr. Sabine Riedel, Dr. habil. in political science, Dr. phil., in slavic und islamic studies, since 2017 founder and editor of the scientific online journal: [Forschungshorizonte Politik und Kultur \(FPK\)](#), Berlin.

The following analysis shakes the most important in Western war reporting, namely the basic question of possible solutions to the internal conflict in Ukraine. The Europeans must break this silence, otherwise there is the threat of a long-lasting war in the middle of their continent with serious consequences. The disintegration of statehood, legal systems and social security in the countries of the Western Balkans, Lebanon, Syria, Iraq and Libya show where the journey can lead for the European states. In all these countries, the main issues are internal distribution struggles, political participation and access to economic resources.

Because such social tensions build up over years, their causes are often very complex and difficult for outside observers to grasp as a whole. Not infrequently, they are also fueled from outside, by foreign states or NGOs, each pursuing their own political agenda and making scientific conflict analysis even more difficult (cf. kfibs.org, hiik.de, hsfk.de, ifsh.de). Nevertheless, the states concerned could change course at any time and take the resolution of their conflicts into their own hands. This applies not least to Ukraine, especially after the start of Russian military operations. So it is its sovereign decision to buy even more weapons for its self-defence. But in doing so, it bears the responsibility for running deeper and deeper into a debt trap and risking the escalation of a war with Russia that it cannot win militarily.

Instead, Ukraine should address the causes of the war and seek reconciliation with the breakaway regions in the east of the country. Kiev is in a much better position than many other states to reach a peace agreement. Its population has grown together politically and culturally for centuries. That is why this internal conflict can be described as a "fratricidal war", in which people who speak a related Slavic language and belong to Orthodox religious communities are fighting each other. Today's dividing lines only emerged in the course of the 20th century. Since its independence in 1992, the question has arisen as to how Ukraine should deal with this cultural heritage. Does it seek to separate through exclusive historical and cultural narratives, or does it accept the existing social pluralism and cultural self-determination of its citizens.

The Psychological Factor: Transference and Projection onto other Actors

Even a brief examination of the Russia-Ukraine conflict raises the question of why the Western press is unanimously taking sides with Kiev. If international courts were to hold Moscow responsi-

ble for the war in Ukraine in the foreseeable future, they would not automatically absolve other actors in the war, including the Ukrainians, from complicity. There is a current example of this: More than twenty years after the end of the Kosovo war, the war crimes tribunal in The Hague brought charges against Hashim Thaçi, the president of Kosovo, in mid-2020 (spiegel.de, 6.11.2020). The Albanian leader, who at the time was able to push through the secession of the Serbian province with the support of NATO member states, today has to answer for war crimes just like his opponent at the time, the Yugoslav President Slobodan Milošević.

Actually, this makes it necessary to come to terms with the Kosovo war and the one-sided media reports at the time, which portrayed Yugoslavia or Serbia as the sole aggressor and the NATO states as the "legitimate" protectors of the Kosovo Albanians (derstandard.de, 13.5.2019, taz.de, 24.3.2019, Riedel et al. 2002). Instead of learning from these experiences, media are polarising public opinion again. Right at the beginning of the Russian invasion of Ukraine, it was claimed that "Putin is destroying decades of peace" (derstandard.at, 24.2.2022). In contrast, Moscow's initiatives for a treaty on European security go back years (Zagorski 2010) and were last brought to the attention of the NATO countries at the end of 2021 (reuters.com, 2.12.2021). However, they were not prepared to give Russia "firm, legally binding guarantees" for its security, including a militarily neutral Ukraine (interfax.ru, 17.2.2022). In this light, the causes of the war turn out to be much more complex than commonly believed.

During the Ukrainian war, reports and analyses are increasing that hold Moscow alone responsible for the war. In contrast, Ukraine appears exclusively as a victim of Russian aggression, which prevents any critical enquiry about a possible contribution by Kiev to ending the war. The partisanship already consists in seeing Russia on the way to a dictatorship, where is "the suppression of independent media, opposition, civil society comprehensive" (Fischer, 30.4.2022), while Ukraine is not judged by the same criteria. However, the Ukrainian President has been ruling by decree for several years (president.gov.ua). On 19.3.2022, Volodymyr Zelenskyy announced the banning of 11 Ukrainian opposition parties because they were suspected of maintaining good contacts with Russia (Decree, No. 153/2022, fr.de, 4.4.2022, weltwoche.ch, 24.3.2022).

However, this decision is not solely due to martial law. Rather, it is part of a whole series of parliamentary decisions that have consolidated the

image of Russia as the sole aggressor and occupier of Crimea since the political coup in February 2014. On 2.4.2015, a law was passed banning the broadcasting of Russian films and series on Ukrainian television because they spread an image of Russia that is too positive ([welt.de, 2.4.2015](#)). Opposition MPs and media representatives therefore predicted an increase in state censorship ([mgukraine.com, 2.2.2015](#), [segodnya.ua, 2.4.2015](#)). Fears were not unfounded that democratic rights such as freedom of expression could be restricted under the pretext of a growing Russian threat. In autumn 2018, for example, Kiev terminated its friendship treaty with Russia ([ukrinform.de, 17.9.2018](#)), only to briefly impose martial law two months later ([sueddeutsche.de, 26.11.2018](#)).

There is no honest debate about the extent to which Ukraine is partly responsible for the escalation of tensions. In truth, Crimea had to fear for its territorial autonomy long before the pro-Western regime change of government at the beginning of 2014, so it turned to Russia. Moscow then gave it the privileges of a federation subject and thus a status that Kiev had until then denied it ([Riedel 2016: 24](#)). In fact, the influential nationalist party Svoboda (translated as "freedom") has made the population of Crimea sensitive to Russia's offers. For the latter demands in its party programme: "9.4. Removal of the special status of the administrative units – the Autonomous Republic of Crimea and the city of Sevastopol [and] rejection of a 'special status' for the occupied territories." ([Svoboda, Program 1995/2020: Chap. 9.4.](#)) The latter refers to the eastern Ukrainian regions of Donetsk and Lugansk, which also turned away from Kiev following the Maidan protests in 2014, but as independent people's republics.

If Ukraine demands the "restoration of territorial integrity", it can invoke international law, according to which its state sovereignty rights also include those territories that are currently not under its control ([Resolution, 24.5.2017](#)). However, international law also includes obligations, particularly with regard to the protection of human rights. This is why international tensions were bound to arise when Kiev restricted the rights of the holders of its sovereignty in the "breakaway" territories, i.e. the rights of native Russian-speaking Ukrainians: in its resolution of 21.5.2015, the Ukrainian parliament suspended "certain obligations" arising from the International Covenant on Civil and Political Rights and other human rights documents ([op. cit.](#), see below).

Ukraine argues that it has lost confidence in international organisations, especially the Council

of Europe and the OSCE, because they have resumed dialogue with Moscow despite "Russian aggression [...]". The only structure that can resist Russia's aggressive intentions is NATO." ([ibid.](#)) It is supposed to help Ukraine win back Crimea, Donetsk and Lugansk. Kiev has seen itself at war since 2015, but less with its Russian-speaking population than with their Russian "occupiers". The minority is merely seen as Moscow's "fifth column" ([ukrainka.org, Review](#)). Their supply with goods and humanitarian aid would serve as a pretext for Russia to enforce wider security interests ([Resolution, 21.4.2015](#)). If the Ukrainian nationalist party Svoboda demanded punitive actions against the minority even then, they were actually aimed at the Russian Federation. These include demands for a "complete economic, energy, resource and transport blockade of the temporarily occupied territories [...], persecution and revocation of citizenship of all those who have betrayed the Ukrainian state" ([Svoboda, Program 1995/2020: Chap. 9.2., 9.6.](#)) and demands to stop pension payments to the population of eastern Ukraine ([tiahnybok.info, 23.2.2022](#), cf. Figure 1).

Scientists such as [C.G. Jung](#) have coined the term "psychological projection" for the phenomenon of attributing one's own traits or intentions – both positive and negative – to other people. This is based on the belief that people have a "collective unconscious" that encompasses not their own experiences but the entire historical, social and cultural contexts into which they were born. Psychological projections can indicate hidden fears or feelings of guilt that often trigger personality disorders or identity crises. On a societal level, the phenomenon of psychological projection can be seen in the form of collective enemy images. They can be traced back to historically rooted social conflicts that are often accompanied by a collective identity crisis.

Ukraine is a very vivid example of how such a psychological projection can be an expression of an identity crisis. The process of becoming a state has been so fraught with conflict since 1992 because historical and cultural patterns, not political ones, have prevailed in the search for a new national identity. This led to competition for the interpretation of cultural factors and fuelled enemy images. Since the political coup at the beginning of 2014, nationalist forces such as the Svoboda have exerted a strong influence on government policy and intensified the social polarisation between the closely related language and religious communities. They projected their Ukrainian nationalism onto Russia and ultimately their image of Russia as an enemy onto the Russian-speaking Ukrainians in the south-east of the country:

This projection contributed significantly to today's escalation and even seems to have consolidated with the beginning of the Russian invasion.

But Ukraine must realise that the war can only be ended if both warring parties renounce such projections. They must return their dispute to the core issues of the conflict and negotiate compromises. Even if the war continues to be fought only by military means and there is a "winner" at the end, the Ukrainian government cannot avoid a solution to its internal conflict. How does it envisage the reintegration of its "breakaway" citizens if its state borders are restored before 2014? As long as Kiev allows itself to be influenced by Svoboda (Figure 1) and does not make the Ukrainians of Russian mother tongue any offers of integration, they will stick to their course of independence, quite apart from the strategies Moscow is pursuing with its support for the separatists.

Figure 1

Oleh Tyahnybok, leader of the Ukrainian Svoboda ["freedom"], which describes itself as a "social-national party" (cf. svoboda.org, History):

The introduction of a state of emergency is not enough, 23.2.2022

„A state of emergency has been declared in Ukraine. However, this is not enough.

[I repeat the demands of "Freedom": to impose martial law in Donetsk and Luhansk regions. \[...\]](#)

[Stop paying pensions to the occupied territories and direct these funds to provide for internally displaced persons.](#)

[Stop the blood trade and all socio-economic ties, sever diplomatic relations with the aggressor.](#)

[Nationalize the property of Moscow business and collaborators in Ukraine.](#)

Immediately submit to the Verkhovna Rada and adopt the Svoboda bill on criminal liability for collaborationism.

To adopt at the legislative level a decision on the automatic deprivation of Ukrainian citizenship of those who have acquired Moscow citizenship.

[Rename the Ukrainian Orthodox Church of the Moscow Patriarchate to the Russian Orthodox Church in Ukraine with the status of a foreign church. In conditions of martial law to prohibit / restrict its activities. \[...\]](#)

Close the border with Muscovy and Belarus. [...]

[Submit a formal appeal to the UN, the Council of Europe, the OSCE to exclude Muscovy from these organizations. \[...\]](#)

Source: tyahnybok.info, 23.2.2022. Свобода, Олег Тягнибок: Запровадження надзвичайного стану недостатньо [Oleh Tyahnybok: The introduction of a state of emergency is not enough, Translation and highlighting blue: S.R.].

History as a Factor of Identity: The Heritage of Kievan Rus Divides or Unites

The phenomenon of psychological projection described above can be seen in Ukraine's handling of its own history. Since the political coup in early 2014, Kiev has changed its cultural and historical policy. Ukraine's common historical heritage with Russia increasingly became a bone of contention. More than ten years ago, on the initiative of the Russian Orthodox Church, both states had made 28 July a day of remembrance. Since then, they have jointly commemorated the Christianisation of Kievan Rus in 988. As a result of the baptism of its then Grand Prince Vladimir, it was able to hold its own against the great power Byzantium and later even grow into a competing great power. Ukrainian historians now gave their government the idea to "fight with the Kremlin for the brand 'Kievan Rus' [and to make] Kievan Rus a 'real European Rus' in contrast to the later Asian franchise". ([Kazarin 2013](#)) Russia's role as the successor state of this medieval principality is thus to be disputed and instead state continuity since that time is to be awarded to Ukraine.

This proposal was already taken up under President Petro Poroshenko and a petition was launched to rename Ukraine the historical Kievan Rus ([Petition 30.3.2016](#), [Petition 26.10.2018](#)). But only Volodymyr Selensky took concrete steps: With the remark that Christianisation was "not part of our history, it is our history" (gov.ua, [28.7.2021](#)), he decided on 24.8.2021 to rename the commemoration day. From 28 July 2022, it will no longer be celebrated together with Russia, but will commemorate the founding of Ukrainian statehood in 988 ([Decree 432/2021](#)). The head of the Presidential Office added that another decree to change the name of the state was being prepared. This would be "Rus(sia)-Ukraine" (ukr. "Русь-Україна") and was justified by the "need to take away the brand 'Russian' from the Russians" (espresso.tv, 1.9.2021).

As in the case of minority policy, the official historical narrative of the present Ukrainian government bears the signature of nationalist party programmes. But their polemics go much further. Because they regard the whole of Rus as the history of Ukraine, they refer to Russia only as "Moscow" and call out to Russians: "Muscovite, please – when you meet with me, never say that you are 'Russian' [...]. You are a primitive Muscovite, [...] a thief who stole the name of my ancestral homeland RUSSIA, my Orthodox Church." (ukrreporter.com, 14.4.2022) In addition to such journalistic essays, academic sources are also used as evidence of Ukraine's thousand years of statehood,

including the Ukrainian historian Mikhail Hrushevsky (1866-1934). He had begun his ten-volume work on "Kievan Rus" during the tsarist era. This term had been used by Russian historians since the 19th century to summarise the period of medieval Rus. Hrushevsky, however, claimed that this term served Moscow to justify its imperial policy. He contradicted the thesis that Rus was the cradle of all three East Slavic peoples, the Belarusians, Ukrainians and Russians. Ukraine, however, could claim the heritage of Kievan Rus for itself alone (Kostenko / Khalupa 2021).

When today's historians place themselves at the service of the Ukrainian national movement, they can take up Hrushevsky's arguments, speak of a "fictitious trinity" of the East Slavic peoples and call it a "lie" that would deny a 1000-year state independence of Ukraine (loc. cit.). But in doing so, they are deliberately skipping over the experiences of the Soviet era. In that period, it was precisely the thesis of the common cultural origin of three East Slavic peoples that justified a federal state structure: For the first time, Ukraine was granted the rights of a constituent state with self-governing powers, a concession that Kiev denied its Russian-speaking minority. Even after the collapse of the Soviet Union, Moscow continued

the model of a federal state by constituting itself as the Russian Federation (cf. ru. Российская Федерация") and defining its people, in contrast to Ukraine, as "multinational" (Constitution of Russia 1993).

Instead of dealing with its federal state model and its territorial autonomies, Kiev reduces Russia to a Russian-speaking identity – an indication of its own nationalist worldview. Since 2014, the annexation of Crimea has not been seen in the context of security interests, but as Russian expansionism and an expression of Russian nationalist ideology: "Russian President Vladimir Putin needs not only Crimea, but also the destruction of the entire Ukrainian statehood." (unn.com.ua, 22.3.2014) This interpretation has been taken up by German media when they claim that Putin wants to "collect Russian soil" and destroy Ukrainian statehood with his military invasion (zeit.de, 26.2.2022). This serves more to show solidarity with a warring party than to make a scientific assessment of the causes of war and the search for solutions.

A political analysis cannot avoid considering Putin's speeches in which he has set out his view of history. As Ukrainian historians reproach him, he indeed relies on the thesis of the common his-

Figure 2

Maximum expansion of Kievan Rus (10th – 13th c.)



Sources: Own compilation of two maps (inscription: S.R.):
1. Europe blank laea location map.svg, [Wikimedia 9.3.2020](#).
2. Die Ausdehnung der Kiewer Rus um 1000 n. Chr., [Wikipedia 3.2.2006](#) [extends across Ukraine, Belarus, Russia].

Figure 3

Maximum extent of the noble republic Poland-Lithuania (16th – 18th)



Sources: Own compilation of two maps (inscription: S.R.):
1. Europe blank laea location map.svg, [Wikimedia 9.3.2020](#).
2. Verwaltungsgliederung Polen-Litauen, [Wikiwand](#) [extends across Poland, Lithuania, Latvia, Estonia, Ukraine, Belarus, parts of Russia].

tory of the three East Slavic peoples: "Russians, Ukrainians and Belarusians are the successors of ancient Rus." (kremlin.ru, 12.7.2021). He does not question their existence but considers "the wall that has been built in recent years between Russia and Ukraine, basically between a historical and spiritual space [... as a] great common misfortune, as a tragedy". (*loc. cit.*). So far, Putin has sought cultural unity to improve bilateral relations. He must be reproached, however, for the fact that the use of military force is precisely destroying the trust of the Ukrainian population that he wanted to create. It will take generations for the wounds on both sides to heal.

All this makes an impartial view from the outside, a factual analysis, all the more important. In this regard, a few details should be mentioned that tend to speak in favour of a differentiated view of history. The states of the Middle Ages did not know fixed borders. These were only created by the present-day nation-state and by modern international law, which was enforced with the Paris Peace Treaties at the end of the First World War (1919). Therefore, different states can consider themselves successors to certain empires such as the Kievan Rus. Consequently, a right to exclusive state continuity does not exist.

Thus, the Christianisation of Kievan Rus in 988 is not the only important date in its development as a state. According to old chronicles, its foundation goes back to 862, when the ruling dynasties in Novgorod, far to the north, joined together to form a great empire. But even in the Kievan period, when the Rus experienced its greatest territorial expansion, only about half of today's Ukraine belonged to it (cf. Figure 2). At that time, the Kievan Rus included the entire territory of today's Belarus and was located by more than half inside today's Russia.

With the invasion of the Mongols, Kievan Rus disintegrated from the 13th century onwards. Its present-day Ukrainian part came under the rule of Lithuanian and Polish princes. From the 16th century onwards, it belonged to the Polish–Lithuanian Commonwealth (pol. Rzeczpospolita, cf. Figure 3). Despite religious tolerance, Catholicism dominated there. Therefore, the Moscow princes were able to build on the cultural heritage of Kievan Rus. From the middle of the 17th century, Kiev was again under Russian rule, which extended to most of historic Rus at the end of the 18th century. At the same time, the area then called Ukraine was in the far south on the border with the Khanate of the Crimean Tatars, which enjoyed the military protection of the Ottoman Empire.

Language Factor in the 20th Century: Ruthenians, Little Russians, Ukrainians?

In most interethnic conflicts, the language issue plays a dominant role, because a nationality is often derived from the mother tongue, which is the basis for demands for both protection of language minorities and state independence. Ukraine was and still is affected by this nationality principle in several ways. This is why the focus will first be on the political relevance of language policy for today's internal conflicts. Then, the historical contexts that are often used to justify controversial language policy decisions will be explained. This is not only about the factual situation, but again about the interpretations of historical events.

With the founding of the Soviet Union in 1923, the people of Ukraine received chartered rights for the first time. They possessed Soviet citizenship (Russian: гражданство) and the status of a nationality (Russian: национальность) within the framework of a self-governing Soviet Republic (cf. First and Second Chapters, [USSR Constitution 1924](#)). When the Ukrainian nationality declared the independence of its Soviet republic in 1992, it had to fear that other nationalities would follow suit, such as those of Crimea. That is why Kiev passed a law on National Minorities at the very beginning of the founding of the state. Like the new constitution later on, it defined the Ukrainian people as the sum of its nationalities (ukr. національністі), so that all of them received the new citizenship (ukr. громадянство) and were treated as equals in law ([Law 1992](#), [Constitution of Ukraine 1996](#)). This detail is politically extremely relevant, because not all successor republics of the former USSR followed this inclusive state model. Today's Baltic EU member states Estonia, Latvia and Lithuania, for example, excluded the Russian-speaking population from their (language) nation concept and turned them into stateless persons ([Croft 2016](#)).

Thus, whereas the Baltic states converted their former Soviet nationality status into citizenship, denying the Russian-speaking population its existence as a nationality, Ukraine adopted the old nationality model and replaced Soviet with the new Ukrainian citizenship. Therefore, it seems as if it has introduced a political and culturally pluralistic concept of nationhood. But appearance is deceptive; the legal terminology remained ambivalent. National minorities are those population groups that are Ukrainian citizens but do not belong to the Ukrainian (language) nationality ([Law 1992](#), Art. 3). But when elsewhere in the law the term "Ukrainian nation and all nationalities" is

used, the linguistic-cultural contrast arises that should actually be avoided: The concept of nation is here reserved for the Ukrainian nationality.

It is obvious that these ambiguous terms provoked the displeasure of the Russian-speaking population. For them, the change of the official language from Russian to Ukrainian was not a formal act, even though Article 10 of the Constitution states: "[...] protection of Russian and other languages of national minorities of Ukraine shall be guaranteed". (Constitution of Ukraine 1996). Because Russian remained an important means of communication. This was confirmed by the data of the 2001 census, according to which only 17.3 per cent of the population professed Russian nationality (1989: 22.1 per cent, cf. Census 2001), but 29.6 per cent described Russian as their mother tongue. This is an indication of the overlapping of identities, which is less evident in the coexistence of two language groups than in individual multilingualism. Sociological studies from 2005 confirm its importance for Ukraine. In 1994, about 35 per cent used both languages even in private, but ten years later only about 25 per cent did so (Simon 2007: 13; Aasland 2021). Nevertheless, according to this study, about 48 per cent were in favour of reintroducing Russian as a second official language, while only about 34 per cent rejected this proposal.

Thus, in 2012, a corresponding bill was adopted by the Ukrainian parliament, although there had been intense disputes before. The supporters of a Ukrainisation of the public education system and the media resisted a policy of multilingualism (Guttke / Rank 2012: 13). However, they could not prevent the reform of language policy, all the more so as a compromise was at stake. It confirmed the dominant role of Ukrainian as the "state language" (Art. 6), but granted minority and regional languages the status of a second official language in those areas where they are used as a mother tongue by at least 10 per cent of the population (Art. 7, zakon.rada, 3.7.2012). In Crimea and in the majority Russian-speaking areas in eastern and south-eastern Ukraine, Russian was rehabilitated and bilingualism was henceforth protected (cf. Kulyk 2018).

Although this law was based on documents of the United Nations and the Council of Europe, including the European Charter for Regional or Minority Languages, it was criticised by the Organisation for Security and Cooperation in Europe (OSCE). Its High Commissioner on National Minorities, the Norwegian Knut Vollebaek, spoke of a "disproportionate favouring of the Russian lan-

guage" that removed incentives to learn Ukrainian (osce.org, 26.7.2012). In dispute was Article 7 (7), according to which the regions concerned can make Russian an obligatory second official language. Vollebaek's objection is countered by the fact that Article 6 (5) stipulates that the protective measures may not restrict Ukrainian as a state language (zakon.rada, 3.7.2012). This was not enough for the OSCE High Commissioner and the Venice Commission of the Council of Europe. The latter demanded improvements to the law and "sufficient guarantees [...] for the consolidation of the Ukrainian language as the sole State language" (venice.coe.int, 19.12.2011: 12, point 66). The OSCE and the Council of Europe should use the same argument to criticise Catalonia's language policy, because multilingualism was and still is misused for separatist goals there as well (Riedel 1/2018: 7).

After all, Vollebaek took a completely different position in Ukraine in 2012 than he had two years earlier in the Slovak-Hungarian language dispute. There he tried to conciliate with the words: "An effective language policy is one that strengthens the State language without limiting opportunities for the use of minority languages." (osce.org, 8.2.2010, Riedel 2012: 13f.) By taking a stand against the Ukrainian language law to the disadvantage of the Russian-speaking minority, the OSCE High Commissioner supported the critics of multilingualism from the ranks of the pro-Western Maidan movement. Thus, the annulment of this law was among the first decisions of the transitional government, one day after the fall of President Viktor Yanukovich. Now, however, the OSCE changed its assessment. Vollebaek's successor, Astrid Thors of Finland, expressed her concern that there could be unrest, especially in Crimea. She therefore called on "the Ukrainian authorities to adopt a balanced and inclusive approach towards language policy" (osce.org, 24.2.2014). Even the then EU Commission President Manuel Barroso urged the Prime Minister of the interim government, Arseniy Yatsenyuk, to restore the language law (faz.net, 1.3.2014). But these statements by the EU could no longer stop the territorial secession of Crimea, Donbass and Lugansk.

In the following four years, the parliament argued about the legality of the nullification of this law until the Constitutional Court declared it unconstitutional on the 28.2.2018 and subsequently legitimised the parliamentary decision (ccu.gov.ua, 28.2.2018). The decision was based on criticism by the Council of Europe that the position of

Ukrainian as the only state language was not sufficiently guaranteed. To this end, President Petro Poroshenko launched a new law in 2017 entitled "Ensuring the functioning of the Ukrainian language as a state language". Two years later, it was passed by parliament and then enacted in 2021. It officially states that "the Ukrainian language is the determining factor and the main feature of the identity of the Ukrainian nation, which has emerged historically and has lived continuously in its own ethnic territory for many centuries" ([zakon.rada, 7.5.2022](#), preamble). With this, Kiev justifies the exclusive use of Ukrainian in public offices and the requirement for media to offer all foreign-language contributions in Ukrainian

translation (Art. 25, [loc. cit.](#)). Moreover, it instructs the responsible commissions to intervene in the vocabulary of the language itself: Foreign words are to be replaced by Ukrainian words and expressions, the dialects of Ukrainian are to be popularised and a "vulgarisation of the Ukrainian language and its mixing with other languages" is to be prevented (Art. 3, 6, [loc. cit.](#), [Kostiuchenko 2021](#)).

As these latest developments are under the influence of the nationalist Svoboda, the number of critical voices is increasing, for example from Human Rights Watch ([Denber 19.1.2022](#)). They point to recent statements by the OSCE and the Council of Europe, which are now more sceptical about demands for the exclusive role of the Ukrainian state language: The discrimination of Russian, especially compared to the languages of the indigenous population and EU languages, cannot be justified ([venice.coe, 9.12.2019](#), cf. point 134), not even with reference to the historical suppression of Ukrainian ([loc. cit.](#), point 44; cf. [uacrisis.org, 17.3.2018](#), [zakon.rada, 14.7.2021](#)). Nevertheless, Kiev continues its language policy to push back multilingualism with Russian. Even government organs claim that Ukrainian is one of the oldest languages in the world and has been pushed out by Russia with the intention of destroying it ([Shvets 14.2.2022](#), cf. Figure 4). Therefore, in conclusion, relevant linguistic-historical aspects should be briefly discussed.

One argument against equating language and nation is that the oldest historical documents on the founding of Kievan Rus only go back to the 11th century AD. These include the Ostromir Gospel (Novgorod, 1056/57) and the Nestor Chronicle (Kiev, 1113-1118, [Müller 2001](#): XXIV). They were written in the two cultural centres of the time, both in today's Ukraine and in Russia. The language of these written monuments allows conclusions to be drawn about written language models. This was Old (Church) Slavonic (OCS), which goes back to the Slavic apostles Kirill and Methodius of Thessaloniki, came to Kievan Rus from south-eastern Europe and was handed down in the monasteries of the Orthodox Church there ([Hüttl-Folter 1980](#)). Linguists are still researching the question of when and to what extent this imported South Slavic written culture took on East Slavic elements. It is certain that the dialects of Kievan Rus changed the OCS over the centuries, resulting in new script variants ([Bruns 2007](#): 224-231). The process of differentiation between Ukrainian and Russian language standards only began after the disintegration of Kievan Rus from the 13th century onwards.

Figure 4

Petro Shvets, 14.2.2022

The Word as Weapon, How Ukrainian was Conquered

„[...] This beautiful language had no luck within its life, because the neighbour wanted to destroy it. And this has been going on for a long time, and it is still going on today, but it will not happen the way the neighbour wants.

Scientists argue that the Ukrainian language is one of the oldest languages in the world and was spoken by our ancestors who lived for many centuries on the territory of today's Ukraine - before Trypillia [i.e. the Cucuteni-Tripolje culture 7,000 years ago, S.], later, in the times of Kievan Rus and until today.

The Ukrainian word gained strength on the parchments of Nestor the Chronicler, honed in the works of Hryhoriy Skovoroda and Ivan Kotlyarevsky. We thank Taras Shevchenko, Lesia Ukrainka, Ivan Franko and many other associates who preserved and preserved the Ukrainian vernacular.

It is also true that none of the other languages has been subjected to such insane oppression as Ukrainian, and there are indisputable reliable facts about this. [...]

Despite all kinds of oppression, humiliation, the Ukrainian language has survived for a long time, it is developing, although the struggle is still going on.[...]

Since the sixteenth century, later under Peter I and Catherine II and other rulers of the Russian Empire, the neighbouring state brutally suppressed the Ukrainian language. The question of its origin and development as the main feature of the nation was silenced. [...]

Anatoliy Pohribnyi said: "People create language, but language, in turn, forms a nation. We must become strong with our language." And we have to stand! [...]"

Source: [Shvets 14.2.2022](#), Петро Швець, Слово — Зброя, Як українську впокорювали [Petro Shvets, The Word as a Weapon, How Ukrainian was Conquered, in: Government Courier, newspaper of the Cabinet of Ministers of Ukraine], translation and highlighting blue: S.R..

In the area that came under the rule of Lithuanian and Polish princes, Ruthenian, a chancery language and precursor of Ukrainian and Belorussian, developed from the East Slavic variants of the OCS. In contrast, OCS in Russia experienced a second South Slavic influence from monasteries in the Balkans. It was not until the end of the 17th century that language reforms aimed at developing the modern Russian written language. Western cultural languages, especially French, also served as models. At that time, a large part of today's Ukraine already belonged to Russia again. The absolutist tsarist empire did not allow any regional language variants, not even Ruthenian. From a sociological point of view, it should be added that only an elite was able to read and write at that time. Historical sources document an illiteracy rate of about 75 percent of the subjects for the year 1910 (Fehrenbach 2020). There was no homogeneous Russian or Ukrainian nation, neither according to linguistic-cultural nor political criteria (cf. other arguments in Figure 4).

At the beginning of the 20th century, when resistance to the absolutist tsarist empire was forming, the Ukrainian national movement discussed not only state independence but also the name of the nation to be founded. In addition to "Ukrainians" and "Ruthenians", the term "Little Russians" could be used. As early as the 17th century, this name was given to the population that had become Russian subjects since the dissolution of Poland-Lithuania. This suggestion was discarded because it was used for a political unification of all Eastern Slavs (Filatova 2010: 18). The naming of today's Ukraine only prevailed with the founding of the Soviet Union (1923). Within the framework of its self-governing rights as a constituent republic, Kiev has since been able to develop its own written language with its own standard. Nevertheless, Russian remained dominant because, comparable to English in the European Union, it was the most important means of communication throughout the USSR. The fact that Ukraine, despite its Orange Revolutions since 1992, is today falling below the level of Soviet language policy is not approved of by all citizens of Ukrainian identity (Samigin, 5.11.2021, cf. Figure 5).

Factor Religion: The Orthodox Churches between Rivalry and Commonality

The political controversy over the historical heritage of Kievan Rus directly affects the relationship between church and state, both in Ukraine and in Russia. However, in the following the spotlight remains on the inner-Ukrainian identity conflict (on Russia cf. Dobruskin 2006). This only

Figure 5

Denis Samigin, 5.11.2021:

Ukrainian – state, Russian – friendly

„[...] So how can the bilingual, Russian-Ukrainian-speaking people of Ukraine solve the language issue.

Language is an integral, even "physical" part of a person that cannot simply be removed and replaced with another, like a cartridge.

A person has to hear and speak from childhood to feel his language.

Many Russian-speakers simply do not understand the meaning of Ukrainian words. They can't talk.

The obvious thing is that it is easiest to quarrel Ukrainians over the language issue. [...]

Well, if so, it is not surprising that Russian-speaking Ukraine exists and will exist. And for Ukraine, which professes individual freedom, this is not a problem. [...]

And, as we see in Zelensky's example, Russian-speaking Ukrainians are not equal to pro-Russian Ukrainians [he also speaks Russian, S.R.], they can be patriots no worse than Ukrainian-speaking ones. [...] Remember Euromaidan, then it didn't matter if a person spoke Russian or Ukrainian. [...]

Society supported Ukrainization when it came to leveling Ukrainian and Russian positions.

When trying to squeeze Russian out of Ukraine, the resistance of Russian-speaking Ukrainians will begin to increase exponentially. [...]"

Source: Samigin, 5.11.2021, Денис Самигін, Українська – державна, російська – дружня, Українська правда [Denis Samigin, Ukrainian - state, Russian - friendly, in: Ukrainian Truth], translation and highlighting blue: S.R..

came to light openly with the independence of Ukraine in 1992, although its roots go back to the Christianisation of the Kievan Rus. The baptism of Prince Vladimir I in 988 itself symbolised the close interlocking of secular and spiritual power in the Middle Ages: three factors speak for this: firstly, all subjects were forced to accept Christianity as their new religion with their secular ruler. Secondly, after his death, the ruler was venerated as a saint of the Christian Church. Finally, Vladimir's baptism made it possible for him to marry the daughter of the Byzantine emperor, which for the first time created the conditions for a claim to the Byzantine throne and thus to the succession of a great power.

Similar reasons were behind the Christianisation of Bulgaria about a hundred years earlier (864 AD) or behind the power ambitions of the Russian Tsar Ivan III. Since his reign in the 15th century, Moscow was called the "Third Rome", i.e. it aspired to conquer Byzantium, which was called Constantinople or "second Rome" by Orthodoxy. (Hellmann 1969). After a power struggle

between ecclesiastical and secular power, Tsar Peter I put the Russian Orthodox Church (ROC) at the disposal of his reforms at the beginning of the 18th century. He Europeanised his empire along the lines of the absolutist model of rule of the time, so that the Russian Orthodox Church, which was already active in most of present-day Ukraine, soon fell under the supervision of the state. As a result, in the following two centuries it was not the patriarch who headed the (self-)administrative body of the ROC, but an official of the tsar (Riedel 2006). It was not until the Russian revolutions in 1917 that the ROC regained its self-governing rights, albeit only for a short time. The socialist Soviet system did not understand the secular principle as the separation of church and state, but rather as the state's duty to supervise the religious communities.

After the fall of the monarch, the Ukrainian independence movement not only demanded statehood. They also sought self-administration for their Orthodox communities. Thus, in 1919, the Ukrainian Autocephalous Orthodox Church (UAOC) was founded. After bans, new foundations, and long years in exile, it regained a foothold in Ukraine after 1992. Nevertheless, despite decades of state repression, the ROC remained the dominant Orthodox religious community in Ukraine, although in 1992 it gave itself the new name Ukrainian Orthodox Church (UOC). The unprecedented religious freedom soon showed its dark side. The restitution of nationalised property and rivalries within the church divided the UOC. One part of the faithful continued to accept the Moscow Patriarch as their Primate, another part of the Orthodox community demanded its own "Kiev Patriarchate" and subordinated itself to Philaret II since 1995.

Since there are no official statistics on religious affiliation, only sociological surveys such as those of the Razumkov Centre in Kiev can provide information on the size and significance of the religious communities. According to these, the Kiev Patriarchate (UOC-KP) apparently gained rapidly in popularity, so that it became the largest religious community with a share of 15 per cent of the population (razumkov.org.ua, 12.5.2006). The second largest religious community remains the UOC of the Moscow Patriarchate (about 11 per cent), followed by the Ukrainian Greek Catholic Church (UGCC) with 5.3 per cent of the population (see Figure 6). The latter also practices the Orthodox rite but is legally subordinate to the Catholic Church. This refers to historical traces of the medieval Polish-Lithuanian rule, which was able to bind and control the Orthodox clergy of the

Kievan Rus in this way. Today's Uniate churches in Eastern Europe are often newly founded in accordance with these historical traditions.

With the annexation of Crimea (2014), relations between the Orthodox churches deteriorated and they were increasingly drawn into the pull of conflicting political interests. Since 2016, the Ukrainian parliament has intervened in the church dispute, not to reconcile, but to strengthen the UOC-KP in its confrontation against Moscow. In doing so, however, it risked a break with the global orthodox community. For a long time, the latter was oriented towards religious, i.e. canon law, according to which the UOC of the Moscow Patriarchate officially represents Orthodoxy in Ukraine. An alternative strategy would have been more diplomacy to convince the Moscow Patriarch to recognise the self-government (autocephaly) of the UOC alongside the new state borders and to accept the Kiev Patriarch as his equal.

Meanwhile, a majority of members of the Ukrainian parliament recommended that representatives of the UOC-KP start consultations with the Ecumenical Patriarch of Constantinople (Istanbul) so that he can use his authority to resolve the church dispute (radiovaticana, 27.7.2016). Bartholomew I enjoys the status of *primus inter pares* among the Orthodox Church leaders in his succession to the Eastern Roman or Byzantine Patriarch and is also the primate of the UAOC, which was founded about 100 years ago (see above). However, the interreligious dialogue did not stop there; instead, the Ukrainian state strengthened its influence on the Orthodox clergy: at the end of 2018, President Petro Poroshenko paid a visit to the Patriarch of Constantinople to sign a cooperation agreement. In it, Bartholomew I pledged to support the UOC in its quest for self-government and independence from the Moscow Patriarchate (ec-patr.org, 4.11.2018). Just three weeks later, the Ecumenical Patriarchate announced its decision to annul a synodal law of the Orthodox Church dating back to 1686. It had granted the Russian Patriarchate "jurisdiction over Lithuania, Belarus and Ukraine" after those territories had fallen under the Tsar's rule. An examination had now shown, according to the legal reasoning, that "wrong methods" of finding justice had been used in this, and it must therefore be withdrawn, even though it had now been valid for 332 years (ec-patr.org, 27.11.2018). As a result, Bartholomew withdrew the Russian Patriarch's canonical powers over Ukraine, Belarus and Lithuania with the "Tomos" (edict) of 15.12.2018.

In the Ukrainian as well as in the German press, the Ecumenical Patriarch's decision was

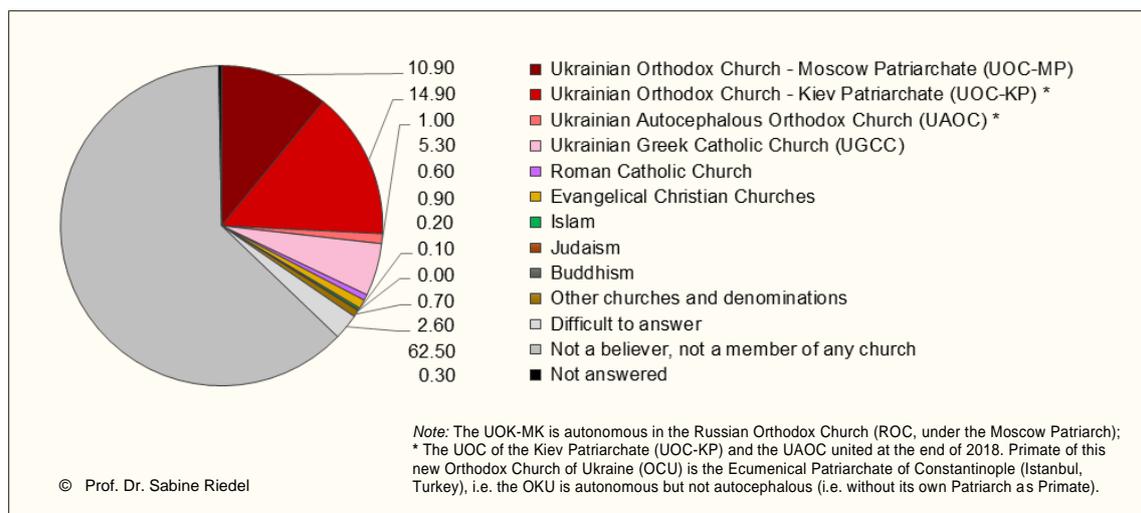
described as a success for ex-President Poroshenko (ukrainian-church.de/7/2018, dw.com/16.12.2018), who was already in the pre-election campaign at the time. But had he actually made any progress? Poroshenko's religious policy achieved the unification of the two Orthodox churches UAOC and the UOC of the Kiev Patriarchate under the name "Orthodox Church of Ukraine (OCU)". As the name suggests, however, the new church is less concerned with strengthening religious and social pluralism than with the same claim to exclusive representation that the ROC and its Ukrainian branch of the UOC had defended until then. As a result of state interference, only the balance of power has changed: From now on, the Ecumenical Patriarch's ray of banishment no longer hits the Kiev Patriarchate, but the Moscow Patriarchate. The religious tensions among the Ukrainian population will not be overcome. One of the beneficiaries is a Ukrainian political elite that has continued to discriminate against its Russian-speaking minority on a religious level since 2014.

But Bartholomew I can also consider himself the winner of the Ukrainian church dispute. For his Patriarchate of Constantinople (Istanbul) is the remnant of a vanished empire. It no longer has any territory of its own, is based in Turkey, which is dominated by Islam, and can only make itself heard as a spiritual authority. In order to assert himself against the other patriarchs, he also uses his competence to appoint those bishops

and metropolitans who do not have an autonomous national church behind them, such as in the USA or Australia (ostkirchen.info/12.5.2019). It was therefore in the interest of the Ecumenical Patriarch to extend this direct influence to Orthodox communities worldwide, including Ukraine. Thus, the media hardly publicly mentioned the price for the recognition of the newly founded OCU and certainly did not discuss it. From the point of view of church law, it did not receive the required autocephaly, which in the Greek sense of the word includes its own church head (cf. gr. κεφαλή – head). Rather, Bartholomew placed the OCU under his supervision to avoid a dispute over "churches, monasteries and other assets", according to his words (ec-patr.org/11.10.2018). Therefore, the Kiev Patriarch Philaret II had to hand over his pastoral baton to the Ecumenical Patriarch in Istanbul and his successor Epiphanius had to be satisfied with the position of Metropolitan. The latter now stands not only behind Bartholomew in the church hierarchy, but also behind the Russian Patriarch.

It took only a few months for the resigned Kiev Patriarch and today's "Honorary Patriarch" Philaret to distance himself from the agreement of 15.12.2018. He feels deceived, because from the beginning Ukraine sought recognition of the OCU as a true autocephalous church. But now, according to Philaret, it serves the Greeks like the Moscow Patriarchate serves the Russians (hromadske.ua/11.6.2019). All in all, the interference of

Figure 6
Sociological research on religious affiliation in Ukraine from 2006



Source:
Own compilation according to the data: razumkov.org.ua/12.5.2006, Центр Разумкова, Соціологічне опитування, Віруючим якої церкви, конфесії Ви себе вважаєте? Київ, Україна [Razumkov Center, Sociological Survey, Which church, denomination do you consider yourself a believer in? Religion, Kiev, Ukraine; Translation: S.R.].

Ukrainian politics in the intra-religious conflict has fuelled the church dispute instead of calming it and created new lines of conflict. The parliamentary decision of 22.5.2018 added oil to the fire. It supports the claim of the newly founded OCU to be the only legitimate representation of Orthodoxy in Ukraine. Therefore, the UOC of the Moscow Patriarchate was ordered to change its name to the Russian Orthodox Church ([zakon.rada, 20.12.2018](#), cf. Figure 7). However, the church is resisting the new state requirement because it is organically part of the ROC and the Russian patriarch is its spiritual head. However, as a Ukrainian church it enjoys autonomy within these structures, comparable to the autonomy of the new OCU vis-à-vis the Patriarch of Constantinople.

Figure 7

Press report of 22.12.2018 about the
Law for renaming the Ukrainian Orthodox Church (Moscow Patriarchate)

„[...] The law is entitled" On Amendments to the Law of Ukraine "On Freedom of Conscience and Religious Organizations" regarding the name of religious organizations (associations) [...]

We remind you:

- On December 20, the Verkhovna Rada voted in favor of [the draft law №5309, according to which the Ukrainian Orthodox Church of the Moscow Patriarchate must change its name and indicate its affiliation with Russia.](#)
- On this day, more than a thousand representatives of the Ukrainian Orthodox Church of the Moscow Patriarchate gathered in front of the parliament for a prayer rally to protest against the renaming.
- The UOC-MP later claimed that the [Bill 305309 on renaming a church violated the right to freedom of religion](#) and discriminated against millions of Ukrainian believers on religious grounds, and called on President Petro Poroshenko to veto it.
- In November, the head of the Ukrainian Orthodox Church, Filaret, stated that the Kyiv Patriarchate would ask the Verkhovna Rada to pass a [law changing the name of the Ukrainian Orthodox Church \(Moscow Patriarchate\) to the "Russian Orthodox Church" in Ukraine.](#)
- Earlier, the newly elected Primate of the Orthodox Church of Ukraine, Metropolitan Epiphanius, stated that after the Unification Council, Metropolitan Onufriy will be the only Metropolitan of the Russian Orthodox Church in Ukraine.
- On December 15, the Unification Council elected Metropolitan Epiphanius (Dumenko) of Pereyaslav and Bila Tserkva as the head of the only Orthodox Church of Ukraine. [...]"

Source: [pravda.com.ua, 22.12.2018](#), Порошенко підписав закон, що зобов'язує УПЦ МП змінити назву, Українська правда [Poroshenko signed a law obliging the UOC-MP to change its name, Ukrainska Pravda], [zakon.rada, 20.12.2018](#). Translation, highlighting: S.R..

Since the end of 2018, it has appeared that more and more other Orthodox national churches are being drawn into the Ukrainian church dispute. First and foremost, among them is the ROC itself, which has been directly affected by Bartholomew's edict. In a letter, Patriarch Cyril objects to the revocation of the Synodal Act of 1686, which deprived him of authority over the UOK and other regional churches. According to him, for hundreds of years there has been "no disagreement between our churches" over this Act ([patriarchia.ru, 31.12.2018](#)). Moreover, he questions the claim that the Patriarch of Constantinople has the exclusive competence to grant autocephaly to Orthodox churches. "Even the modern Eastern Orthodox Churches do not recognise such a privilege for you." ([op. cit.](#)) He referred to the right of the other patriarchates to have a say. In fact, Bartholomew and the new OCU have so far only found support from the patriarchs of Greece and of Alexandria and all Africa. In contrast, the patriarchates in Serbia and Bulgaria sided with the ROC ([patriarchia.ru, 16.12.2018](#)).

In the Western press, there was already talk of a schism in Orthodoxy because of this. Such reports, of course, stay on the surface when they adopt arguments from one or the other side without examination and downright reverse the roles of the actors. For example, they describe the ROK as the real agent because "the Moscow Patriarchate provides ideological cover for Putin's 'hybrid war' against Ukraine" ([NZZ, 18.2.2020](#)). However, there are reports that Petrochenko did not act alone either, but in agreement with US Secretary of State Mike Pompeo. Some Ukrainian journalists were critical of his expression of solidarity ([dw.com, 15.1.2019](#)). For Russian Foreign Minister Sergey Lavrov, the American engagement was even "another step in tearing Ukraine from Russia, not just politically, but also spiritually". ([washingtonexaminer, 19.10.2018](#), [valdaclub.com, 11.12.2018](#)).

It is thus clear that external secular forces have interfered in the Ukrainian church conflict in order to pursue their opposing geopolitical interests. This has reduced the scope for the members of the Ukrainian parliament to offer all faith communities a place in society through modern, secular legislation. Even the Pope of the Catholic Church, who renounced the title "Patriarch of the West" as recently as 2006, criticised the external interference in the Ukrainian conflict. Pope Francis accused NATO of provoking Russia with its policy of eastward expansion ([spiegel.de, 4.5.2022](#)). But the pressure from the media after this statement was so strong that he cancelled the planned

meeting with Cyril, which was scheduled for mid-June 2022. The Christian churches are obviously no longer able to regulate their religious tensions on their own. In this way, they are failing in their actual spiritual task of standing up for peace and understanding in the world. The religious dispute in Ukraine is thus not only a reflection of the failure of the Christian churches, but also of the global crisis in humanitarian and spiritual values.

Factor Law: Die Role of International Law in the Ukrainian Conflict of Identity

In the same way, the crisis in the implementation of humanitarian values can be seen in international law. When this is discussed in more detail in the following chapter, only the developments up to the outbreak of the war on 24.2.2022 will be discussed. This is because the focus of this analysis lies on the inner-Ukrainian conflict and its prehistory. The war itself has made the legal situation more complex: culpability for violations of international law or for genocide is difficult to verify ([deutschlandfunk.de, 24.4.2022](https://deutschlandfunk.de/24.4.2022)) and linked to certain institutional conditions ([handelsblatt.com, 8.4.2022](https://handelsblatt.com/8.4.2022)). Because Russia's alleged crimes are currently at the centre of attention, the Ukrainian government can retreat to a victim role and shift responsibility for the outbreak and course of the war away from itself. For an end to the military confrontation, however, a critical assessment of Kiev's failures is necessary, because even before the beginning of the Russian occupation, it was an active warring party in Donetsk and Lugansk.

Although Ukraine did not become an independent state until 1992, it was nevertheless one of the founding members of the United Nations (UN) in 1945, together with Belarus. Josef Stalin, the designer of the Soviet peoples and their republics, was able to push this through due to the balance of power at the time, although he ran the risk of secession, since the Soviet republics had a formal right of withdrawal. His calculation was a stronger influence of the Soviet Union on international politics ([Schwenk 1969: 80](#)). For this reason, the West repelled further attempts by Moscow to grant all Soviet republics such limited subjectivity under international law, such as the Baltic States. Ukraine therefore enjoyed a privileged position among the Soviet peoples because it belonged to the UN system and helped shape it from the beginning. Moreover, quite a few party cadres of Ukrainian nationality made it to the top of the Soviet Union, such as the presidents Nikita Khrushchev and Leonid Brezhnev or Prime Minister Nikolay Podgorny. How Ukraine benefited from this cadre policy is shown by the example of

Crimea. In 1954, they gave the Black Sea peninsula to the Ukrainian Soviet Republic, although it had belonged to Russia since the 18th century and until then had had little to do with Ukraine's history. It should give pause for thought when the Russian annexation of Crimea (2014), which undoubtedly violates international law, is challenged with arguments based on Soviet law. This was neither based on the rule of law nor is the historical background sufficiently known.

Flashbacks to the history of Ukraine during the Soviet era now concentrate on other events such as the great famine (uk. holodomor) in 1932/33, which some historians see as an "exemplary case of genocide" brought about to exterminate Ukrainians ([cicero.de, 27.11.2020](https://cicero.de/27.11.2020)). This fits into the picture of centuries of Russian oppression of Ukraine, which is said to extend into the Putin era. There are some indications against such claims, like the fact that half of the 7 million people who died of starvation outside Ukraine at that time died in other Soviet republics. One cause was the forced collectivisation of agriculture, so that it was mainly the farmers in the grain-producing regions who suffered from hunger ([Simon 24.11.2007](https://simon.24.11.2007)). Ukraine was not only the Soviet Union's breadbasket at the time (koerber-stiftung.de), it is now the breadbasket for the entire world, with an annual export of about 70 million tonnes of grain ([deutschlandfunkkultur.de, 17.3.2022](https://deutschlandfunkkultur.de/17.3.2022)). As a result of the current war, the issue of famine will again be in the headlines from the middle of 2022. This time there will be a global food crisis because the transport routes across the Black Sea are mined and thus blocked. Many journalists recall the Holodomor and claim that this time Putin is also using the Hunger as a weapon for his war aims ([dw.com, 26.5.2022](https://dw.com/26.5.2022)).

Just as it was not Russia that was to blame for the famine, but the politicians of all the Soviet republics, including those of Ukraine, Kiev bears a share of the responsibility today. Its uncompromising and confrontational policy has contributed to the escalation of military violence on its own state territory since 2014. Now it threatens to pull Europe and uninvolved third countries into their conflict. Therefore, Ukraine should be more clearly confronted with the demand that it too must move in this conflict. International documents on the human rights situation illustrate the problem: Due to its special foreign policy competences in Soviet times, Ukraine was the first signatory of important human rights documents such as the two covenants of 1966 ([ohchr.org, Ukraine](https://ohchr.org)). However, it only became a member of the Council of Europe as an independent state three years after

the collapse of the Soviet Union ([Homann 1993](#)). Since the European Convention on Human Rights ([ECHR 1950](#)) came into force in Ukraine (1997), Kiev has been subject to supranational jurisdiction, namely the European Court of Human Rights (ECtHR).

The reporting of this Strasbourg-based court reveals the gap between aspiration and reality when it comes to the rule of law. In the past decade, Ukraine ranked third after Russia and Turkey in the list of Council of Europe member states that most frequently violated the European Convention on Human Rights. In the past year 2021, half of all proceedings at the ECtHR occurred in these three states ([echr.coe.int, Documents](#): 180, Figure 8). Among the judgments handed down, Ukraine even ranked second, directly behind Russia, with violations of the right to liberty and security (Article 5, ECtHR) and inhumane and degrading treatment by the authorities (Article 3, ECHR) being documented most frequently ([loc. cit.](#): 187). The most recent judgements concerned incidents during the Maidan protests in 2014, but the judges were unable to clarify from whom the violence actually originated, from the Ukrainian "police or non-state actors" (cf. also other case examples at: [echr.coe.int, Ukraine](#): 5).

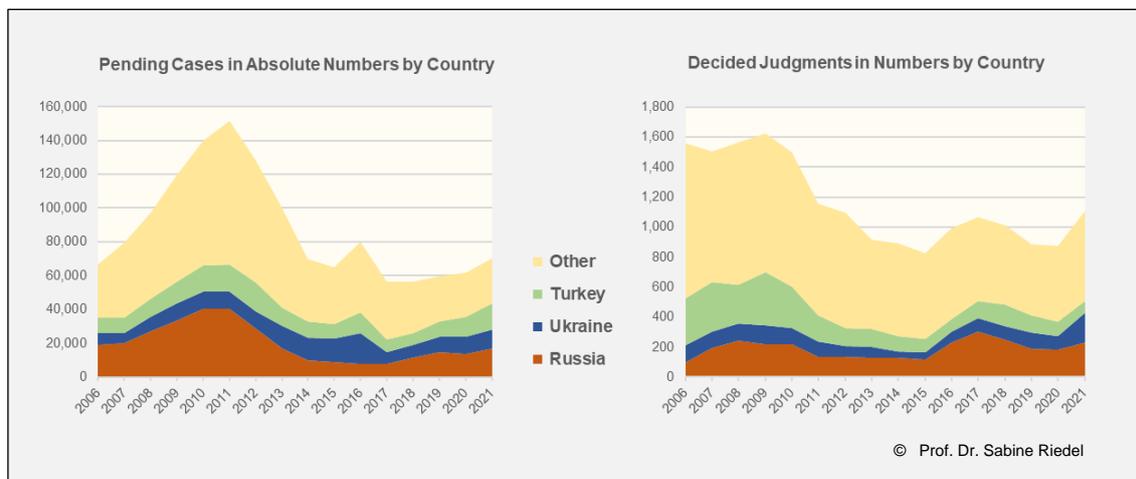
In relation to the total population, no other member state of the Council of Europe had more documented human rights violations than Ukraine. However, the Council of Europe's High Commissioner for Human Rights hardly provides any

up-to-date information on this. His last monitoring report after a visit to the country dates back to 2016 ([coe.int, Ukraine](#)). It was already overshadowed by the secession of Crimea and the two regions of Donetsk and Lugansk in eastern Ukraine. Thus, Commissioner Nils Muižnieks focused his attention on the human rights violations there as a result of violent clashes. He noted that since April 2014, i.e. within two years, 9,000 people had died and about 1.7 million had been registered as internally displaced persons ([coe.int, 11.7.2016](#)). The report shows not only that Kiev reacted to the secession with disproportionate violence. Above all, it was a fatal mistake to cut off the population in Donetsk and Lugansk from all pension and social benefits. This had to be perceived by the Russian-speaking Ukrainians as a hostility towards them and virtually drove them into the arms of the separatists. Under pressure from the Council of Europe, these measures were supposed to be withdrawn, but no review took place afterwards.

Why the Human Rights Commissioner has not paid another monitoring visit to Ukraine in the last six years can be attributed to various causes. In its resolution on 21.5.2015, the Ukrainian parliament made a far-reaching statement: It did not regard the violent clashes in eastern Ukraine as an internal conflict, but as an "armed aggression by the Russian Federation" ([zakon.rada, 21.5.2015](#)). Accordingly, Ukraine has considered itself to be at war with Russia since 2014 and therefore feels entitled to partially suspend international treaties

Figure 8

Violations of the European Convention on Human Rights (2006 - 2021) by country: Russian Federation, Ukraine, Turkey and the other 44 member states of the Council of Europe



Source:

Own compilation based on data from the ECtHR: European Court of Human Rights, Annual Report-2021, [echr.coe.int, Documents](#), data for 2021; cf. the data for the years since 2006 in the URLs with the corresponding year.

on human rights protection. This concerns the UN International Covenant on Civil and Political Rights as well as the European Convention on Human Rights ([op. cit.](#)). In fact, Ukraine's membership should have been suspended, as its ratification is a precondition for participation in the Council of Europe. Instead, its Commissioner for Human Rights distanced himself from Russia and cancelled his monitoring mission there ([coe.int, 11.10.2016](#)).

Subsequent statements on Ukraine primarily concerned minority rights in the Russian-occupied Crimea, but not the Russian-speaking population ([coe.int, Ukraine](#)). It was not until Russia's military intervention on 24.2.2022 that the Council of Europe took the opportunity to issue a critical statement on developments in eastern Ukraine ([coe.int, 24.2.2022](#)). But instead of mediating, Russia was expelled from the Council of Europe on 22.3.2022, while since then the Ukrainian government has enjoyed the full support of the Council of Europe. One day earlier, the observer mission of the Organisation for Security and Cooperation in Europe (OSCE), operating in the contested regions since the Minsk agreements, ended ([osce.org, 21.3.2022](#)). This coincidence in time means that the Western states were prepared for war and apparently had little interest in maintaining the negotiated ceasefire or even in a peaceful solution. With their uncritical partisanship in favour of the Ukrainian government, they have not only done great damage to the OSCE and the Council of Europe. They have contributed to damaging the European peace order. The blame they are directing at Russia thus falls back on all European states.

At the global level, international commissions on human rights issues also work in the United Nations system, mirroring the Council of Europe. Their reports on Ukraine do not end with the year 2016 and therefore provide more detailed documentation of any violations before the Russian invasion began. The latest report of the United Nations Human Rights Monitoring Mission to Ukraine (HRMMU), dated January 2021, addresses sensitive issues. These include the negative role of the Constitutional Court in upholding the rule of law as well as the rise in police violence or the increase in attacks on journalists, opposition members and representatives of the Russian-speaking minority ([ohchr.org, 2021](#)). One issue remains urgent for the UN Commissioner on Human Rights: Kiev's cultural and educational policy must reach out to the Russian-speaking population and respect the public use of their mother tongue ([op. cit.](#), points 90 and 91). Equally to be

criticised is the language policy of the two self-proclaimed People's Republics of Donetsk and Lugansk, where Russian is now the sole official language and Ukrainian is disadvantaged ([op. cit.](#), point 100). With this assessment, the UN contradicts the Ukrainian government, according to which it no longer bears responsibility for human rights violations in the breakaway territories.

Figure 9

Resolution of the Ukrainian Parliament, "On the withdrawal of Ukraine from certain obligations [...] on the protection of human and fundamental rights"
(21.5.2015)

1. With regard to the annexation and temporary occupation by the Russian Federation of an integral part of the territory of Ukraine – the Autonomous Republic of Crimea and the city of Sevastopol, which occurred as a result of armed aggression against Ukraine – the Russian Federation bears full responsibility for the observance of human rights and the implementation of the relevant international treaties in the annexed and temporarily occupied territory of Ukraine.

2. [...] [The Russian Federation, as the state that effectively occupies and controls part of the Donetsk and Luhansk regions](#), is responsible for respecting and protecting human rights in these territories, both under international humanitarian law and international human rights law. [...]

9. [Ukraine therefore has the right to derogate from its obligations under Article 2\(3\), Articles 9, 12, 14 and 17 of the International Covenant on Civil and Political Rights and Articles. 5, 6, 8 and 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms in Certain Areas of the Donetsk and Luhansk Regions of Ukraine](#), as determined by the Counter-Terrorism Centre of the Security Service of Ukraine in connection with the counter-terrorism operation, for the period until the complete termination of armed aggression by the Russian Federation, [and] the restoration of constitutional order in the occupied territories of Ukraine. [...]

10. At the same time, Ukraine reserves the right to take measures that might justify a derogation from obligations under other articles of the International Covenant on Civil and Political Rights and the Convention for the Protection of Human Rights and Fundamental Freedoms, [...].

Source: [zakon.rada, 21.5.2015](#) Верховна Рада України, Про Заяву Верховної Ради України "Про відступ України від окремих зобов'язань, визначених Міжнародним пактом про громадянські і політичні права та Конвенцією [Ukrainian Parliament, On the Statement of the Verkhovna Rada of Ukraine "On the withdrawal of Ukraine from certain obligations defined by the International Covenant on Civil and Political Rights and the Convention]; Translation and highlighting blue: S.R.

Factor Separation of Power: Ukraine with Central or Federal State Structure?

Regardless of the question of how Kiev wants to restore its sovereignty, political concepts are needed. Even in the case of a military victory against Russia, it cannot simply "subjugate" the breakaway eastern Ukrainian territories. Reintegration into its state territory requires legislation and administration that meet minimum standards of human and minority protection at the global as well as the European level. In the past eight years, there have been various proposals in this regard, all of which have been rejected by Kiev. Before analysing the developments since 2014 (next chapter), the experiences of Ukraine in the initial phase of its statehood should be examined. For in the current war situation, it seems as if the current approach of the Ukrainian government is without alternatives and its image of Russia as the enemy is the all-determining constant. This was by no means the case until the outbreak of the war.

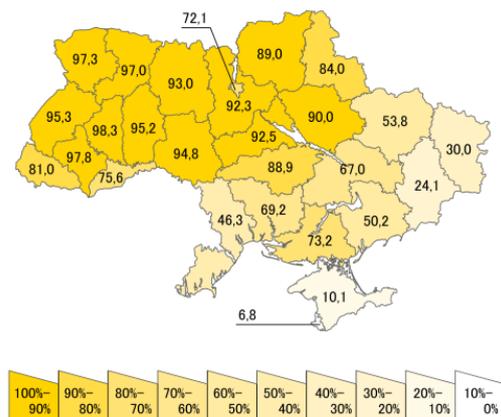
Other historical factors shape today's domestic conflict over Ukrainian nationality. One important experience was that Ukraine did not achieve its statehood through a process of political unification. It was not the result of a successful national movement as it had appeared at the end of the

19th century. Rather, it fell into Ukraine's lap like a ripe fruit with the disintegration of the Soviet Union. From this perspective, Kiev may be in a phase of "catch-up development". This would explain why it overreacts and stigmatises the separatists, who today rely on the same nationality principle as Kiev, just based on their Russian-language identity. A similar behaviour can be seen in NATO member Turkey, which also fears separatism, in this case that of the Kurds, albeit for different historical reasons. Both states, however, believe that they can solve their internal conflicts by force and without political concepts.

In the case of Crimea, Kiev had to accept a compromise more than twenty years ago. One year before the Ukrainian Soviet Republic declared its independence, Crimea succeeded in restoring its status as an Autonomous Soviet Socialist Republic (ASSR) at the beginning of 1991 (Sasse 1998: 3 It had held this status between 1921 and 1944, when it was still part of the Russian SSR (up to 1954). Ukraine, which had become independent, found it difficult to accept a self-governing regional parliament with its own legislative powers, because it sees itself as a unitary state (Art. 2, Constitution of Ukraine 1996). The negotiations also dragged on until 1999 because Russia wanted to enforce a special status for the port city of Sevastopol (Ipb-bw.de, Krim),

Figure 10

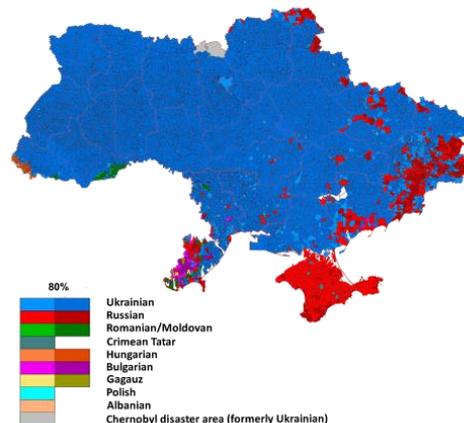
Percentage of people with Ukrainian as their native language according to 2001 census (by region)



Source: Percentage of people with Ukrainian as their native language according to 2001 census (by region), [Wikipedia](#), 21.8.2008; source there: [ukrcensus.gov.ua](#).

Figure 11

Most common native language in urban and rural municipalities of Ukraine according to 2001 census



Source: Most common native language in urban and rural municipalities of Ukraine according to 2001 census, [Wikipedia](#), 9.3.2014; source there: [ukrcensus.gov.ua](#).

in order to maintain its nuclear power there. When, at the beginning of 2014, the new Ukrainian government no longer accepted Russian as an official language and the nationalist Svoboda party pushed for a revocation of Crimea's autonomous status, separatist forces received a boost. For the population of the peninsula, it should hardly matter that their independence referendum (16.3.2014) violated international law. Moscow not only gave the peninsula the autonomy it wanted, but also made it the 85th subject of the federation after annexation to Russia (21.3.2014). It is hard to imagine that the inhabitants of Crimea would want to reverse this, especially in view of Kiev's uncompromising approach.

The loss of Crimea is tragic for Ukraine not only because it marked the beginning of a confrontation with Russia and a new Cold War. It was also damaging to its political culture, because the demands for autonomy had triggered a discussion in the 1990s about decentralisation or federalisation of the entire country (Haran 2002: 103). This was reflected in the draft constitution of 1992, which provided for the possibility of forming "national administrative-territorial units in areas of traditional compact residence of national minorities based on the will of the population of the area" (cf. Art. 107, [zakon.rada, 1.7.1992](#)). Because this would have perpetuated the Soviet principle of nationality, many Ukrainians feared that this principle could strengthen conflicts along ethnic-linguistic lines and promote secessionist movements. In the east and south, there are areas or communities where the majority of the population is non-Ukrainian-speaking and where Russian, Hungarian, Romanian/Moldovan and Bulgarian mother tongues dominate ([ukrcensus.gov.ua](#), Figures 10 and 11). What a quick way for a nationality to become a "nation" claiming the right to statehood (cf. further [Riedel 3/2019](#): 3).

However, if decentralisation is understood as a form of democratic participation of the regions (see figure 10) and thus as a kind of vertical division of power, the conflict-ridden nationality principle would not be able to take effect. This collective-law approach is then contrasted by an individual-law approach. Democratic decision-making procedures emanate directly from the sovereign and are not mediated by representatives of ethnic groups. The relationship between minority and majority results from the respective political interests, detached from cultural-linguistic affiliations. Such a model of democracy was also discussed in Ukraine. For in reaction to criticism of the Soviet nationality principle and the constitutional requirement to initiate decentralisation

(Art.132, [Constitution of Ukraine 1996](#)), President Leonid Kuchma put a reform project to the vote in 2000. The fourth question of the referendum was: "Do you support the need to form a bicameral parliament in Ukraine, one chamber of which will represent the interests of the regions of Ukraine [...]" ([cvk.gov.ua, 16.4.2000](#), translation: S.R.). The result was clear, with 81.7 per cent in favour of regionalisation, which had the potential to transform Ukraine into a federal state.

However, this reform process was influenced directly from outside. The so-called Venice Commission already took a critical position on the constitutional project in the run-up to the referendum. Actually, this body of the Council of Europe, the

Figure 12

Critical statements of the Council of Europe on the referendum (16.4.2000) on plans for a federal Ukraine

Statement of the **Venice Commission** of the Council of Europe before the referendum, 31.3.2020:

„44. In general, it is obviously up to Ukraine to decide on whether the country wishes to have a monocameral or bicameral system. **In a unitary State such as Ukraine there is no obvious need for a second chamber.** Nevertheless, a second chamber may contribute to the quality of legislation. It has however to be taken into account that the existence of a second chamber will slow down the legislative process. The present problems given as reasons for the introduction of the reform are therefore likely only to be aggravated under such a system.“

Source: [venice.coe.int, 31.3.2020](#), Constitutional Referendum in Ukraine. Opinion adopted by the Commission at its 42nd Plenary session (Venice, 31 March 2000), page 9; translation and highlighting blue: S.R.

Statement of the **Venice Commission** of the Council of Europe after the referendum, 16.10.2020:

„28. In its opinion of 31 March 2000 the Commission criticised the referendum question regarding the creation of a second chamber since it was far too vague to enable Ukrainian citizens to make an informed judgement. [...]

29. One other aspect was emphasised by the Commission at the time: **the setting up of a second chamber risks being in contradiction with the reasons given for the referendum.** The referendum was justified by the need to speed up and facilitate the legislative process, whereas the existence of a second chamber necessarily slows it down. This is a circumstance which will have to be born in mind in the design of any proposal for a second chamber.“

Source: [venice.coe.int, 14.10.2020](#), Implementation of the Constitutional Referendum in Ukraine, Opinion, adopted by the Commission Meeting, Venice, 13-14 October, 2000, translation and highlighting blue: S.R.

European Commission for Democracy through Law, has only an advisory function ([venice.coe.int, About us](#)). Moreover, although its members are legal experts, they are appointed by the governments of the member states. Thus, they do not come from a self-governing civil society, but are bound by party politics. This may explain their statement at the time that there was no need for a second chamber in Ukraine ([venice.coe.int, 31.3.2020](#), see Figure 12). Their concern was for the legislative process, which would be thereby slowed down. Such a sweeping justification is therefore incomprehensible because many of the Council of Europe members have a second parliamentary chamber. Moreover, Ukraine is the largest country in Europe in terms of area after Russia and Turkey.

Even after 82 percent of Ukrainians had voted for a federal state structure with a voter turnout of 81 percent, the experts still stuck to their assessment. They were apparently just as uninterested in the opinion and motives of the voters as they were in the positive review of the Ukrainian Constitutional Court and thus of their Ukrainian colleagues. A few months later, the reform project was stopped under pressure from the Council of Europe, after the Parliamentary Assembly had followed the recommendation of the Venice Commission. It mainly criticised the strong position of the president, but underestimated the envisaged federalisation as a counterweight and a balance of domestic political interests ([coe.int, assambly, 25.1.2001](#)). In response to this setback, the Party of Regions (Ukr. Партія регіонів) began to take off and, under the leadership of Viktor Yanukovich, became the strongest political force in Ukraine from 2006 onwards, intermittently forming the government. Although it was not able to realise its programme of regionalisation or federalisation, it was able to pass the language law in favour of Russian through parliament.

With the coup of the 23.2.2014, this reform process was also interrupted. Today, it is beyond doubt that there was repeated outside help, but less from Europe than from the USA ([bbc.com, 7.2.2014](#)). As a result, Russia also intervened directly in the conflict. Historians will have to examine the details. According to current sources, it can be said that Moscow had made offers of negotiations to the USA and Ukraine even before the occupation of Crimea. It was ready to negotiate on everything, on the referendum in Crimea, the controversial language law on the role of Russian as an official language and on a federalisation of Ukraine ([zn.ua, 14.3.2014](#)). The latter issue in particular indicates that Russia was cer-

tainly not interested in breaking up Ukraine at the time. It saw itself as the protecting power of the Russian-speaking minority, a role that other states also claim for themselves.

Ukraine's Dilemma: Autonomous Special Rights or Federalisation

Since Russia supported the proposal for the federalisation of Ukraine to resolve the Ukraine crisis (2014), it has been openly discredited as pro-Russian by EU and NATO countries. In retrospect, this reservation in 2000 may have pushed the Council of Europe to prevent Ukraine's constitutional reform to establish a second chamber of parliament. Since the fall of Viktor Yanukovich (2014), the federalisation project has been rejected on the grounds that Moscow could put permanent pressure on the Ukrainian central government through the Russian-speaking regions ([Olszański 2014](#)). However, this argument describes a widespread phenomenon that affects many European states. For example, Ireland and EU institutions are currently influencing separatist tendencies in the United Kingdom, Northern Ireland, Wales and Scotland. Austria sees itself in the role of a protective power for the German language minority in South Tyrol (Italy), France acts accordingly in Wallonia (Belgium), Denmark in the German state of Schleswig-Holstein, Hungary in Romanian Transylvania, Bulgaria in Northern Macedonia and Romania in the Republic of Moldova ([Riedel 2017: 6](#)).

These latent and historically conditioned tensions are contained by treaties in which the participating states mutually guarantee their sovereign rights. This is the basis on which trust has been built over decades for making the external borders more permeable for the movement of goods and people. This is particularly true of the EU members, which have even transferred their sovereign rights in trade and monetary policy to supranational institutions. The objection to a federal Ukraine because of possible Russian influence shows that such voices have not understood the nature of European cooperation and, above all, the political system of the EU. European scholars describe the latter as a multi-level system ([König u.a. 1996](#)), which consists not only of the supranational and nation-state levels. The EU Treaty of Lisbon (2010) further strengthened the voice of the local and regional level ([europarl, AdR](#)). How does a Ukraine that has been moving in the opposite direction since 2014, towards more centralisation to the disadvantage of its regions, expect to catch up with these EU-wide processes?

The political concept of a "Europe of the regions" emerged more than 30 years ago and has been dealt with extensively by European studies (Hrbek 2020). However, following on from this, political movements have established themselves in the European Parliament that turned this peace-oriented approach into an ideology that re-vises those bilateral conflicts that were supposed to be overcome in the course of European integration. These include the European Free Alliance (EFA), for whom the current competences of the Committee of the Regions (CoR) are not sufficient. According to their proposals, this body of the EU should be expanded into a second chamber of the European Parliament, in which all European regions would be represented (e-f-a.org, 2019-1). This agenda amounts to the foundation of a European federal state, which would no longer consist of sovereign nation states and their political will nations, but of regions and their peoples in an ethno-cultural sense. In the EFA's "2019 Manifesto", this reads as follows: "While state nationalism is inward-looking and based on exclusion, the European Free Alliance's vision of the peoples' nationalism is the opposite." (e-f-a.org, 2019: 22)

Among the more than 40 member organisations of the EFA was Latvian Russian Union (LKS, lit. Latvijas Krievu savienība, russ. Русский союз Латвии), a party of the Russian-speaking minority. It too wants to transform the EU into a "union of peoples, regions, autonomies and cultures [...]". According to this model, the Russians of Latvia should receive cultural and educational autonomy" (rusojuz.lv, 1.4.2019, translation: S.R.). The chairwoman of the LKS is Tatjana Ždanoka, who has been an MEP since 2009 and belonged to the Greens/EFA group until 1.4.2022 (greens-efa.eu). She was only expelled from the group after the start of the Ukraine war. However, the isolation of the representative of the Russian-speaking minority in the European Parliament is pure symbolic politics. For the Greens and the EFA continue to promote separatist forces, including Catalan politicians who want to separate their already autonomous region from Spain just like the regional politicians in eastern Ukraine (greens-efa.eu, 7.7.2021). In May 2022, the Group published a video on "Building a Europe of all Peoples" (greens-efa.eu, 13.5.2022, Figure 13). At the same time, they support the Ukrainian central government in its fight against the separatists, who declared themselves independent even before the outbreak of the war. How will the Greens and EFA react when EU regions proclaim their statehood? Will they then also drop them, as the

Ukrainian regions did, and opt for the central governments, even if they take violent action against their "minorities"?

Other political groups in the European Parliament are also divided in their solidarity, i.e. they support separatist movements on the one hand and a Ukrainian government that has been taking military action against the breakaway regions for eight years on the other. For example, the liberal Renew Europe group includes the Basque National Party EAJ-PNV, which continues to seek

Figure 13

Revival of the nationality principle from the 19th century / the Soviet Union:

"Building a Europe of all peoples"

Group of the Greens / European Free Alliance in the European Parliament, 13.5.2022:

Europe is like a big board game, made up of large, unified nation-states. However, on this board game there are other people and nations without a state of their own. During the last few decades, Europe has experienced an increase in nationalist, autonomist and regionalist democratic civic movements: from Brittany, Corsica, Alsace, the Basque Country, Galicia, Catalonia, Flensburg, Bavaria, Scotland and the Veneto region, among others. This resurgence of nationalist movements fighting for minority rights, autonomy, reunification, federalism, confederalism or even independence demonstrates the shortcomings of the current democratic system. [...]

But do European institutions share this transformative spirit? Why are there no democratic tools to manage the demands of stateless nations, a fundamental human right? Is it possible to respect minorities, individuals, stateless nations, and their right to self-determination? How can we respond to citizens' demands and transform them into transformative policy initiatives? The Greens/European Free Alliance parliamentary group is committed to multilevel governance, that is, a decentralised model of government, from the local level of the European Union, where minorities, regions or stateless nations have greater control over their institutions and economic resources. We want a diverse Europe with institutions that are responsive to citizens' demands. We want a democratic system that recognises and respects the right to self-determination and accompanies all nations towards greater autonomy and recognition. We want solutions for people. We want a Europe of All Peoples.



EUROPEAN FREE ALLIANCE
in the European Parliament



THE GREENS/EFA
in the European Parliament

Source: greens-efa.eu, 13.5.2022. The Greens/EFA in the European Parliament, Building a Europe of all peoples; highlighting blue: S.R.

statehood ([Euzkadi 2015](#): 16). The parliamentary group [The Left](#) contains the Irish nationalist party Sinn Féin, which since Brexit has been working towards a union between Northern Ireland (United Kingdom) and the Republic of Ireland ([sinnfein.ie](#), further: [Riedel 3/2019](#): 5). Finally, the right-wing conservative Identity and Democracy faction does not offer a solution to the intra-Ukrainian conflict, apparently because two separatist parties are in its ranks, the Italian Lega Nord and the Flemish-Belgian Vlaams Belang. It differs from other factions only by being less polarising between Ukraine and Russia and thus does not further fuel the conflict ([idgroup.eu](#), [1.3.2022](#)).

Even if the EU members and their institutions express their solidarity with Ukraine, this is limited to the purely material level. Conceptually and ide-

ally, however, European politicians appear exhausted and hardly capable of innovative solutions to domestic conflicts. The party programmes in this regard remain contradictory; aspirations and reality no longer coincide. This is why central concepts such as nation, nation-state, autonomy and federalism can be reinterpreted, misunderstood and ultimately put to political use: Political will-nations are divided on the drawing board into ethno-linguistic "peoples and nations without their own state", minorities are created and state borders are questioned ([greens-efa.eu](#), [13.5.2022](#), Figure 13). Such a description is only apparently objective and scientific. Even informed reflections on the advantages and disadvantages of "ethno-federalism" ([Hale 2008](#): 307f.) tend to relativise the actual dangers. They ignore contemporary sociological standards according to which people's identities are not fixed but self-determined and ambiguous. A citizen born in Scotland has British citizenship and can live in the South of England. The same applies to native Bavarians who now live in Hamburg or Russian-speaking citizens from Donetsk who currently work in Kiev. Identitarian images of society and history say more about the anti-democratic sentiments of their creators than about the realities of life.

Finally, it is incomprehensible how the protectors of the Minsk peace negotiations, France and Germany, could recommend decentralisation to Ukraine, granting special status to the "certain areas of the Donetsk and Luhansk regions" (cf. point 11, [Minsk Agreements](#)). Why does Germany, based on its own experience as a federal state, not support those Ukrainians who prefer a federal structure for their state as well? Why is France demanding that Ukraine introduce cultural autonomies that it would never grant to its regions? Even Russia is facing the challenge of replacing the old nationality principle from Soviet times with democratic structures. Moscow should reconsider the recognition of the self-proclaimed Donetsk and Lugansk People's Republics as independent states. The founding of new states according to the nationality principle, which derives nationality from cultural orientation, will soon destabilise the Russian Federation. Finally, despite their declaration of sovereignty, the breakaway regions will remain politically isolated and economically dependent on supporting states such as Russia for many years to come, as the fate of so-called "defacto states" such as Kosovo, Northern Cyprus or Transnistria shows. Even if their populations wanted to join the Russian Federation along the lines of Crimea, this would be militarily enforceable, but would hardly be valid under

Figure 14

S. Riedel: Preconditions for a solution of the identity conflict in Ukraine in 2022:

1. Ukraine must resolve its internal identity conflict itself, without interference from outside: neither by Russia, the European Union, the Council of Europe, the OSCE nor the USA.
2. All international organisations and their member states must respect Ukraine's state sovereignty in accordance with the documents of the United Nations (UN).
3. The latter can only demand those human rights standards to which Ukraine has committed itself by treaty. The obligations towards the Council of Europe go further than those at UN level.
4. A Ukrainian model of nationality that makes a large proportion of citizens stateless or foreigners ("Russians") on the basis of religion or language contradicts all human rights.
5. The right to sovereignty over the entire territory of the state includes responsibility for its inhabitants. Civil rights and social assistance cannot be withdrawn " as punishment".
6. Since the war in Ukraine was preceded by an eight-year internal conflict, an end to the war depends on a solution to this civil war. Kiev has to make compromises.
7. The compromise should take into account the experience with the nationality principle of the Soviet system and not link political rights to religious or linguistic affiliations.
8. An ideal starting point is the referendum of 16.4.2000, in which a majority of Ukrainians voted in favour of a federal state structure and a second parliamentary chamber.

international law. Peace treaties always require compromises.

The Ukrainians would do well to learn from their recent history and work on their own solutions to their internal conflicts. As shown above, they pursued the idea of a second parliamentary chamber from the very beginning of their statehood. The idea was to give the regions more say and to counterbalance the strong position of the president. Based on their experience with the old Soviet system, they were sceptical about a federal model whose regional structures would be tailored to the settlement area of cultural or linguistic communities. In contrast, a majority of Ukrainians in the referendum of 16.4.2000 accepted the proposal to decentralise their country independently of the cultural identities of its inhabitants. From today's perspective, it was a mistake for Kiev to give in to political pressure from the Council of Europe and drop this project. Without such a new constitutional reform in favour of regional self-government, it is not conceivable that Kiev will regain the confidence of the population of its eastern regions.

It would be up to the member states of the Council of Europe and the EU to admit that they have given Ukraine wrong advice on administrative and language reform. Instead of interfering in the domestic developments of their member states, they should ensure that the external framework conditions for Ukraine's democratic development are right. This includes refraining from further polarisation and enemy stereotypes. What is called for at present is not a hasty membership of Ukraine in the EU or NATO. Rather, concepts are needed that allow for overlapping areas of integration in politics and the economy in order to give not only Ukraine, but also Central Eastern and South Eastern Europe a prosperous development perspective.

Summary Theses: ²

The Psychological Factor: Transference and Projection onto other Actors

- ◆ Psychological projections play a central role in the conflict between Russia and Ukraine. Soul researchers such as [C.G. Jung](#) understand this to mean the [attribution of one's own traits or intentions to others](#). Most of the time, hidden fears or feelings of guilt lie behind them ([stangel.eu](#)). They can be [the expression of an unstable personality or of identity crises](#).

- ◆ This approach is based on the concept of the "collective unconscious". It refers to that part of a personality that does not include one's own experiences, but rather the [historical, social and cultural contexts](#) into which a person was born. Therefore, the concept of psychological projection can also be applied to societies.
- ◆ This concept can contribute to the analysis of conflicts within and between states because it reveals underlying structures and motives of the actors. Ukraine is a particularly illustrative example: with the help of psychological projection, it can divert its [identity crisis, which has become manifest in Donbass, Lugansk and Crimea](#), onto an external "enemy".
- ◆ [Ukraine benefits from identity crises in Russia](#), which has been experiencing a process of nation-building since the dissolution of the Soviet Union. Moscow is pursuing a liberal course towards minorities, [while Ukraine locates its state identity in a nationalist doctrine](#). It projects this onto Russia in order to justify human rights violations in its own country

History as a Factor of Identity: The Heritage of Kievan Rus Divides or Unites

- ◆ For the Ukrainian President Volodymyr Zelensky, [Kievan Rus \(10th-13th centuries\) is "not part of our history, it is our history" \(gov.ua, 28.7.2021\)](#). The commemoration day on 29 July stands for the "indissolubility of both states". Under his predecessor in office, [a petition was even launched to change the name of Ukraine to Kievan Rus \(Petition 30.3.2016\)](#).
- ◆ [Ukraine's claim to the heritage of Kievan Rus is directed at Russia](#), which also regards this empire as part of its statehood ([Kapeler 2019; kremlin.ru, 12.7.2021](#)). It comprised four times the size of Ukraine. Because the centre of power shifted from Novgorod to Kiev early on, [Russian historians in the 19th century gave this empire the name "Kievan Rus"](#).
- ◆ With the invasion of the Mongols, Kievan Rus disintegrated. Today's Ukrainian part came under the rule of Lithuanian and Polish princes. [From the 16th century it belonged to the noble republic of Poland-Lithuania \(pol. Rzeczpospolita\)](#). [Despite religious tolerance, Catholicism dominated there](#), so that the Moscow took up the cultural heritage of Kievan Rus.
- ◆ [From the middle of the 17th century, Kiev was once again under Russian rule](#), which extended to most of historical Kievan Rus at the end of the 18th century. The area, which was then called [Ukraine \("borderlands"\)](#), was located [in the far](#)

deals with the geopolitical interests behind it: "Lay down your arms!" (B.v. SUTTNER), in: [Topic in Focus 3/2022](#), 11.3.2022.

² This summary appeared as [Topic in Focus 2/2022](#) on 2.2.2022, i.e. before the start of the war in Ukraine on the same website of the author. A later contribution

south on the border with the Crimean Tatar Khanate, which enjoyed the military protection of the Ottoman Empire.

Language Factor in the 20th Century: Ruthenians, Little Russians, Ukrainians?

- ◆ The naming of today's Ukraine only became established with the founding of the Soviet Union (1923). As a constituent Soviet republic with self-governing rights, Kiev has since been able to develop its own literature with its own language standard. Until then, the absolutist government of the tsars had banned all publications in Ukrainian for fear of revolts.
- ◆ The written language precursor of today's Ukrainian official language, however, was Ruthenian, which was cultivated in the Polish-Lithuanian period as an East Slavic official language. From a linguistic point of view, it is considered a historical language level for both Ukrainian and Belarusian and can be regarded as a sister or variant of Old Russian.
- ◆ In addition to "Ukrainians" and "Ruthenians", "Little Russians" was a suitable name at the beginning of the 20th century. It goes back to the 17th century and marked those Eastern Slavs who became subjects of Russia after the dissolution of Poland-Lithuania. The Ukrainian national movement rejected it (Filatova 2010: 18), because it served as a concept for the political unification of all Eastern Slavs.
- ◆ The Ukrainian official language is the result of Soviet cultural policy. This included a policy of multilingualism, which assigned Russian the dominant, because unifying, role. This functional side is seen retrospectively as oppression and personalised with the Russian-speaking minority. Their rights as a minority are at the centre of the conflict.

Factor Religion: The Orthodox Churches between Rivalry and Commonality

- ◆ The history of Ukraine is still marked by rivalries between churches and religious communities. However, the end of Soviet rule marked the beginning of a previously unknown freedom of religion. Because, like Turkey, it had followed the laicist principle that knew no separation, but instead ensured political control over the churches.
- ◆ Ukraine's independence triggered inter-religious power struggles: The restitution of nationalised property split the Russian Orthodox Church (ROK). Although Orthodoxy is organised along the lines of state self-government, the Ukrainian Orthodox Church (UOK) was only recognised by the Ecumenical Patriarchate in Istanbul in 2018 (orf.at, 12.10.2018).
- ◆ The ROK, led by the Moscow Patriarchate, fought for privileges in Ukraine as well as in Russia.

However, both states have rejected its recognition as a state church and instead put all faith-eligible communities on an equal legal status. Nevertheless, the ROK was able to enforce special rules in Russia, such as tax exemptions (Dobruskin 2006).

- ◆ The close connection between church and state holds its own dangers for Ukraine (domradio.de, 8.9.2017). For with its claim to the historical heritage of Kievan Rus politicians are shifting the conflict with Russia to the religious level. Its historical mythology makes the UOK the origin of Orthodoxy among the Eastern Slavs. This does not lead to more inter-religious tolerance.

Factor Law: Die Role of International Law in the Ukrainian Conflict of Identity

- ◆ The Ukrainian identity has affected international law since 1945: Josef Stalin, constructor of the Soviet peoples and their republics, pushed for Ukraine and Belarus to become separate members of the United Nations (UN) when they were founded. He took the risk of secession in order to give the Soviet Union more influence on decisions of the United Nations (Schwenk 1969: 80).
- ◆ In 1992, Ukraine's state independence was internationally recognised, not as a result of secession, but because of the collapse of the Soviet Union (Homann 1993). This rule of international law was also applied to the successor states of Yugoslavia. In addition, the 16 Soviet republics had the right to withdraw (but not the German federal states).
- ◆ With the constitution of an independent state, the Ukrainians became a subject of international law and thus the bearer of national sovereignty. But domestically, they did not grow into the role of a political nation of will. They remained in the corset of a Soviet-era nation defined by language (Preamble, Constitution 1996; Besters-Dilger 2011), which made others a "minority".
- ◆ The Ukrainian constitution speaks of the protection of "national minorities" (Art. 10 and 11). In 1992 a "Ukrainisation" and "Derussification" began (Schmidt 1994: 12), which continues to this day. An education law (5.9.2017) led to protests from Russia, Hungary and Romania (bpb.de 2017). They demand the protection of minorities within the framework of the Council of Europe.

Factor Separation of Power: Ukraine with Central or Federal State Structure?

- ◆ Ukraine has feared separatism since its independence. Crimea used the disintegration of the Soviet Union to restore its status as an autonomous republic, which Stalin had abolished in 1944. Since it no longer belonged to the Russian but to the Ukrainian Soviet Republic from 1954 onwards, completely new lines of conflict arose in the Ukraine.

- ◆ The demands of the Crimeans for autonomy rights were taken up by Ukrainian dissidents of the [Helsinki Group as early as the 1980s](#). They discussed state models for a decentralised or even federal Ukraine ([Heran 2002: 103](#)). The [Constitution \(1996\)](#) rejected these concepts and defined Ukraine as a "unitary state" (Art. 2). Only Crimea had an autonomous statute (1992).
- ◆ In 2000, the discourse on decentralisation in Ukraine was revived. President Leonid Kuchma proposed constitutional reforms, among them establishing a bicameral parliament representing 24 regions and the cities of Kiev and Sevastopol. In the referendum of 16.4.2000 ([cvk.gov.ua](#)) it was accepted with 83 per cent of the votes in favour.
- ◆ A few months later, the reform project was stopped by the [Council of Europe](#). The Parliamentary Assembly had followed the recommendation of the [Venice Commission](#), which criticised the reform project. It took offence at the strong position of the president, but underestimated the envisaged federalisation as a counterweight and a balance of domestic political interests ([venice.coe.int](#)).

Ukraine's Dilemma: Autonomous Special Rights or Federalisation

- ◆ After the failure of the constitutional reform, this project was increasingly discredited. Since the [Ukrainian government did nothing to eliminate the deficits of vertical separation of powers](#), the regional forces organised themselves at the central state level. [The Party of Regions thus became the mouthpiece of the Russian-speaking Ukrainians from Donetsk and Lugansk](#).
- ◆ The increasing polarisation of the country along linguistic affiliations seemed to confirm the argument that giving in to greater regionalisation or even [federalisation](#) would further intensify the lines of conflict. Thus, [the issue of administrative or constitutional reform became a problem rather than part of the solution](#).
- ◆ It would have been an advantage for Ukraine to implement the reforms from 2000. The plebiscite gave them legitimation and a convincing concept: [a two-chamber parliament would have ensured the regions or federal units an equal say](#) and broken with the former Soviet principle of linking political rights to ethnic affiliation.
- ◆ Because Ukraine dropped its reform project, the inter-ethnic conflict intensified and erupted in violence. Today, external actors are demanding compromises: Point 11 of the [Minsk Agreements provides for a constitutional reform that Kiev actually rejects but has to accept: a "special status of certain areas of the Donetsk and Luhansk regions"](#).

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