



## **Assessment report**

### **Impact of the decentralisation reform on national minorities in Ukraine in the selected regions: Chernivtsi, Odesa and Zakarpattya oblasts**

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### ***Disclaimer***

*This report does not necessarily reflect the official position of the Council of Europe or its member States.*

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<sup>1</sup> The “Introduction” and sections 1.1. and 2 have been drafted by the experts of Department of Democracy and Governance, sections 1.2., 3 and 4 by the experts of the Anti-Discrimination Department, and the “Conclusions and Recommendations” jointly by the experts’ team.

## **List of acronyms**

ATC - amalgamated territorial community

ECLSG - European Charter of Local Self-Government

ECRML - European Charter for Regional or Minority Languages

FCNM - Framework Convention for the Protection of National Minorities

LSG - local self-government

NGO - non-governmental organisation

PIT - personal income tax

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# Introduction

Territorial fragmentation in Ukraine has been for a long time seen as one of the main barriers for effective decentralisation and provision of public services for citizens of the countryside. Since 2015 Ukraine has been implementing an ambitious amalgamation reform, based on voluntary – but supported by strong incentives provided by the central government – establishment of new (consolidated) local communities.

The goal of this report is to assess the impact of the decentralisation reform, specifically communities' amalgamation, on national minorities in Ukraine in the selected regions (Chernivtsi, Odesa and Zakarpattya oblasts).

The report should help to understand the role national minorities have played in preparation and implementation of the reform on a local level as well as what has been the impact of the reform on their present situation, both in terms of securing basic minority rights and the ability to participate in decision-making at local level.

As a background of the report the following Council of Europe standards are referred to:

- European Charter of Local Self-Government and Additional Protocol to it on the right to participate in the affairs of a local authority;
- Framework Convention for the Protection of National Minorities;
- European Charter for Regional or Minority Languages;
- Recommendation of the Committee of Ministers to member states on the processes of reform of boundaries and/or structure of local and regional authorities CM/Rec(2004)12E; and
- Recommendation of the Committee of Ministers to member states on the participation of citizens in local public life CM/Rec(2018)4.

The report is based on a variety of sources of empirical material. First is related to the general information on the progress of decentralisation reform in the country. The second source refers to the ethnic structure of the population. Initial analysis is based on the results of 2001 national census on ethnic structure on the level of *oblasts* (regions) and *rayons* (subregional level/district). But since the census data are relatively old, and do not fit with the new territorial organisation, the additional data collection was organised by the project in order to collect information on present (2020) ethnic structure in the districts and new amalgamated communities in the three case study oblasts: Chernivtsi, Odesa and Zakarpattya.<sup>2</sup>

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<sup>2</sup> Justification of the selection of oblasts for case studies is presented in the next section of this report.

Finally, the report draws also from its own research on the perception of the reform. One source of information is the Council of Europe supported annual opinion surveys of the nation-wide random sample of citizens<sup>3</sup> who were asked about their opinions about the decentralisation and local self-government reform. As of today, five runs of opinion polls have been delivered (in 2015, 2016, 2017, 2018 and 2020) with the findings of the 2020 opinion poll that were presented by the Council of Europe in late October 2020 (after the report has been completed).

The second source is a series (39) of semi-structured individual and group interviews conducted within the project in three target regions with representatives of: (i) oblast and district state administration, (ii) amalgamated communities (new local government units with considerable share of population from national minorities were selected for the interviews), as well as authorities of villages, who initiated the amalgamation, but failed to succeed, (iii) regional and local non-governmental organisations (NGOs), regional Local Self-Government Development Centres (iv) representatives of national minorities groups, (v) all-Ukrainian NGOs of national minorities. The interviews were conducted during summer 2020. Due to pandemic limitations, all interviews were conducted in an online form.

**Table 1. Categories of respondents<sup>4</sup> interviewed in three target oblasts by the project**

	Chernivtsi oblast	Odesa oblast	Zakarpattya oblast
<b>Number of ATCs<sup>5</sup> covered</b>	3	5	4
<b>LSG management (Mayor, deputy mayor, starosta + ATC executive committee managers)</b>	6+1	8+7	6
<b>Education institution</b>	6	5	0
<b>Oblast/district councils and state executive authorities</b>	5	5	3
<b>National minorities organisation</b>	3	4	3
<b>Other regional institution</b>	3	1	2
<b>All-Ukrainian non-governmental organisations of national minorities and/or umbrella NGO</b>	9		

It should be stressed that three target regions provide different pace of the communities' voluntary amalgamation during 2015-2019. Chernivtsi oblast has already established more than

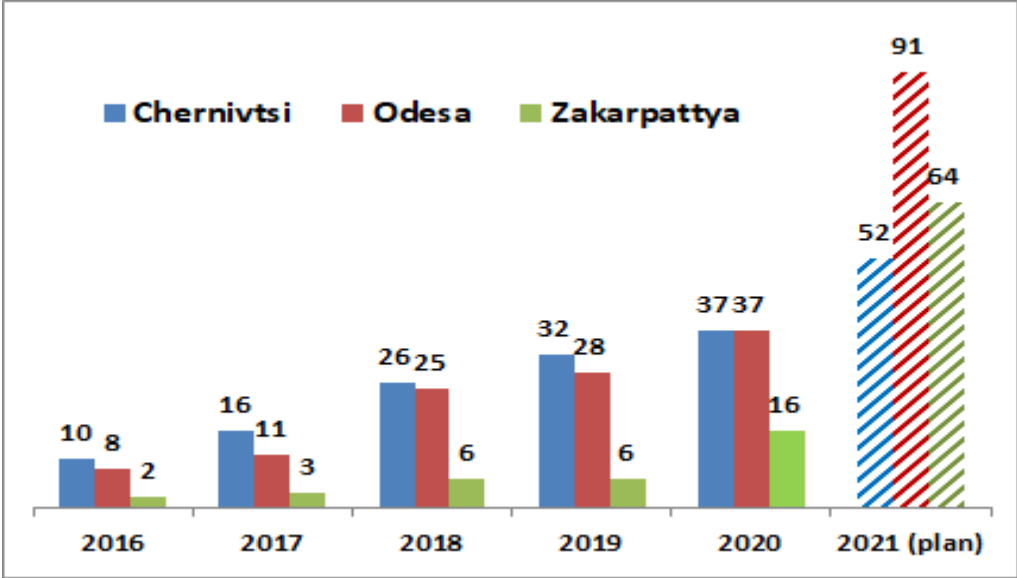
<sup>3</sup> In August-September 2020 opinion poll was commissioned by the Council of Europe via 2000 interviews with respondents from 110 settlements of Ukraine. The margin of error for the sample (with the probability of 0.95 and with the design effect 1.5) is 0.7-3.3%.

<sup>4</sup> Some respondents represent two categories, both are counted.

<sup>5</sup> The interviewed amalgamated communities were: Voloka/Voloca, Storozhynets/Storojineț and Novoselytsya/Noua Suliță in Chernivtsi oblast, Tiachiv, Koson, Baranyntsi/Baranya and Velykyi Bereznyi in Zakarpattya as well as Krasnosilka, Starokozatska, Vylkivska, Velykomykhailivska and Kiliyska in Odesa oblast.

⅓ of planned number ATCs, including a range of polyethnic ATCs, which provide best practices of the reform implementation in diverse communities. In Zakarpattya and Odesa region majority of ATCs (73 and 60% respectively) will be established administratively (based on the Cabinet of Ministers decision).

Fig. 1. Total number of ATCs in the target regions as of January 1 (Source: Minregion<sup>6</sup>)



During the interview respondents were asked about:

- their general perception of the decentralisation reform (with exclusive focus on voluntary amalgamation of communities) and its outcomes,
- main supporters and opponents as well as their arguments for and against of the reform,
- role of national minorities issues in the local debates on the reform,
- possible impacts of the reform on securing minority rights as well as their participation in local policy making.

This report summarises results and conclusions from information collected through all those sources.

<sup>6</sup> Ministry for Communities and Territories Development of Ukraine (Minregion), Monitoring of the decentralisation and LSG reform as of Sept.10, 2020 at: [https://decentralization.gov.ua/uploads/library/file/593/%D0%9C%D0%BE%D0%BD%D1%82%D0%BE%D1%80%D0%B8%D0%BD%D0%B3\\_10.09.2020.pdf](https://decentralization.gov.ua/uploads/library/file/593/%D0%9C%D0%BE%D0%BD%D1%82%D0%BE%D1%80%D0%B8%D0%BD%D0%B3_10.09.2020.pdf)

# 1. Basic information on national minorities in Ukraine

## 1.1. Statistical overview of the allocation by oblasts and districts

The newest official data on ethnic structure of population in Ukraine which cover the whole territory of the country originate from 2001 national census.<sup>7</sup> According to it, Ukraine is a relatively diversified country in terms of ethnicity, with over 77% population declaring Ukrainian nationality, and 17% of Russian. In case of the next seven nationalities (Belarusian, Moldovan, Bulgarian, Hungarian, Romanian, Polish as well as Crimean Tatars, who are considered indigenous people rather than national minority) the number of citizens is higher than 100,000, and they constitute significant proportion of the population in some areas (districts, ATCs). According to census data, Roma population constitutes just 0.1% of Ukrainian population, but some academic sources as well as data collected by some international organisations<sup>8</sup> claim that it is an under-estimated number, since at the time when census was conducted numerous Roma people did not possess ID documents.<sup>9</sup> Additional complication and source of impreciseness of estimations is related to the fact that the number indicated in the 2001 census included also work migrants, which probably contributed to overestimation of the population of Russian minority, as well as some other nations of the former USSR. The three oblasts selected for our detail field research: Chernivtsi, Odesa and Zakarpattya, are regions with the highest proportion of population of nationalities other than Ukrainian and Russian (see fig. 1).<sup>10</sup> Also, in none of the remaining regions, none of national minorities constitutes more than 5% of total population, and in only one it is more than 3% (3.50% of Poles in Zhytomyr oblast). However, in most of the oblasts there are places with a share of national minorities of at least 5%-10% and/or an absolute number of persons belonging to a national minority or using a minority language that is sufficient to implement the minority legislation.

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<sup>7</sup> Lack of newer data makes the analysis imprecise. In particular it is well known that some of people who were still identifying themselves as Russian just 10 years after the collapse of the Soviet Union, have changed their self-identity in following years, but there are no precise official numbers which could be used in the report.

<sup>8</sup> E.g. "Estimates on Roma population in European countries" at <https://www.coe.int/en/web/roma-and-travellers/publications>

<sup>9</sup> H. Bocheva *Roma in Ukraine - a time for action: priorities and pathways for an effective integration policy*, Minority Rights Group Europe, 2019, [https://minorityrights.org/wp-content/uploads/2019/05/MRG\\_Rep\\_Ukraine\\_EN\\_Apr19.pdf](https://minorityrights.org/wp-content/uploads/2019/05/MRG_Rep_Ukraine_EN_Apr19.pdf)

<sup>10</sup> The fourth such region is Crimea, which is part of Russian occupied Ukrainian territories now, thus conducting research was not possible there.



Fig. 2 presents the ethnic structure of the three selected oblasts. The largest share of national minorities may be found in case of Russian nationality in Odesa region (over 20%), and in case of Romanian nationality in Chernivtsi, as well as Hungarian in Zakarpattya oblasts (over 12% in both cases).

While the overall share of national minorities at the level of regions may seem low, there are districts where the concentration of national minorities is significant, which is illustrated in the graphics below. That most ethnically diversified *districts* in three case oblasts are presented on fig. 3-5. Altogether in 13 *districts* or cities of those *oblasts* (including 8 in Odesa region), ethnic Ukrainians constitute less than 50% of total population.

Fig. 2. Ethnic structure of population by Ukrainian oblasts (2001)

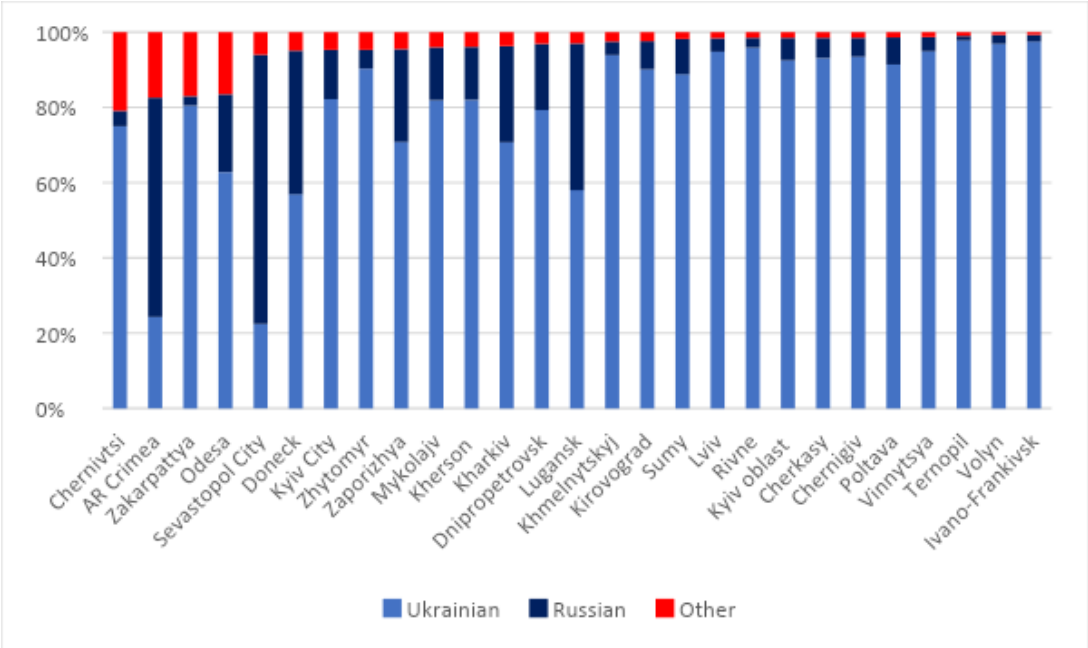


Fig. 3. Ethnic structure of 3 researched oblasts (2001)

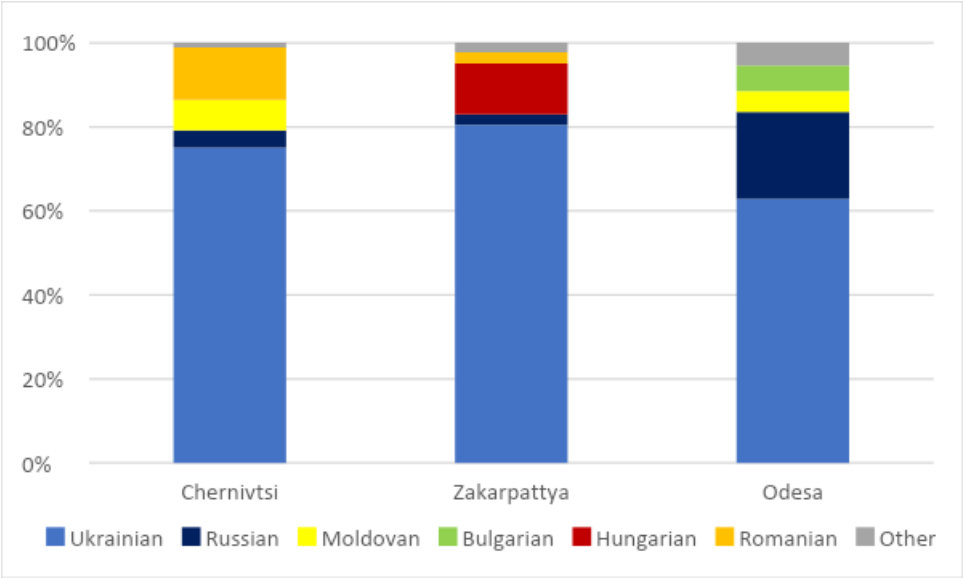


Fig. 4. Ethnic structure of the selected *districts* and cities of oblast status in Chernivtsi oblast (2001)

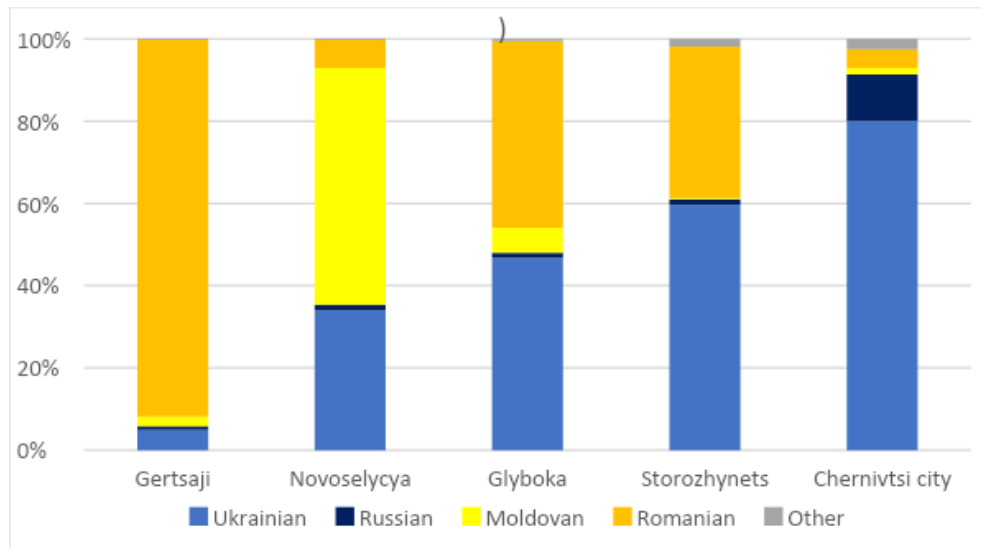


Fig. 5. Ethnic structure of selected *districts* and cities of oblast status in Zakarpattia oblast (2001)

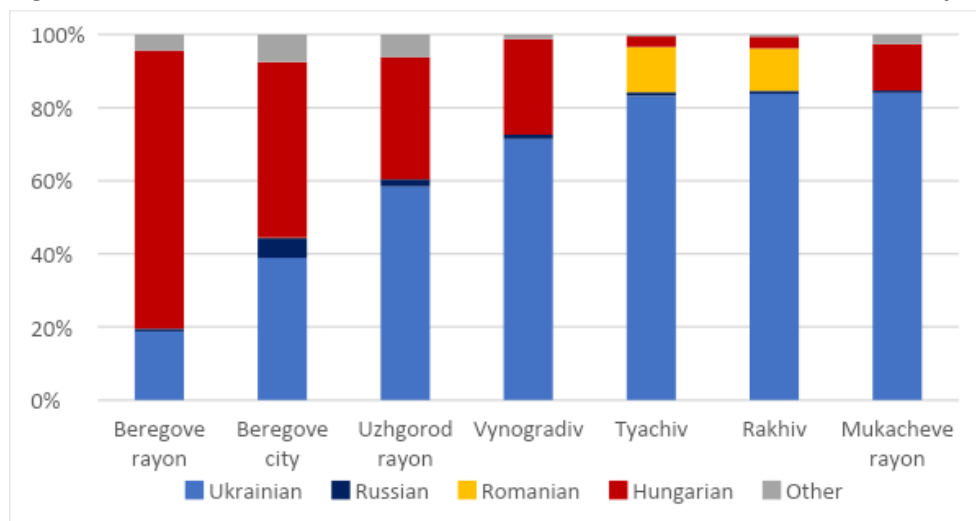
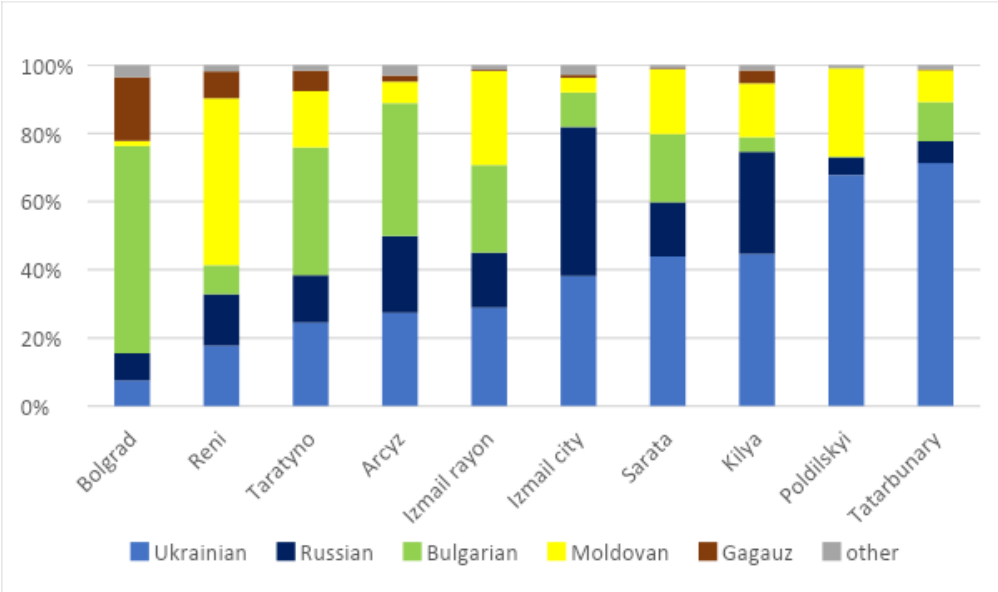


Fig. 6. Ethnic structure of selected *districts* and cities of oblast status in Odesa oblast (2001)



When it comes to the proportional representation of national minorities in local government institutions, it is a well-known phenomenon that minority groups, are often underrepresented in the political life. Moreover, following the Putnam’s law of increasing disproportionality,<sup>11</sup> we may expect that national minorities would be better represented among councillors on a local level, less so among mayors and heads of district and oblast administrations, and even less among oblast councillors. In addition, through the representation of the individual minority groups, we may indirectly trace members of which of them enjoy higher status in the society.

Data collected during summer 2020 confirm these expectations (fig. 6-8). In most of the presented cases the share of oblast councillors with national minorities background is lower than the share in total population, and lower than in case of local councillors. Also, the ethnic structure of heads of villages, towns and districts is less diversified that of all local councillors and of the local population.<sup>12</sup> The picture of the national structure of councillors and heads of local authorities reveals its disproportionality even more when we realize that national minorities dominate especially in small communities in which the number of political representatives per number of citizens is higher than in the bigger cities. Therefore,

<sup>11</sup> According to this law we may expect that a reverse pattern of increasing importance in the government system will be accompanied by decreasing representation of lower-status groups (low education, low income, youth, women; this category usually includes also national minorities). According to this concept, composition of local councils reflects the structure of the whole community more visibly than it is the case of regional or central authorities. The selection process, which is relatively open at the lowest levels and closed towards the top, gives an opportunity for low status groups to be represented better in elected councils in small communities. Putnam, R. D. (1976). *The Comparative Study of Political Elites*. Englewood Cliffs: Prentice-Hall.

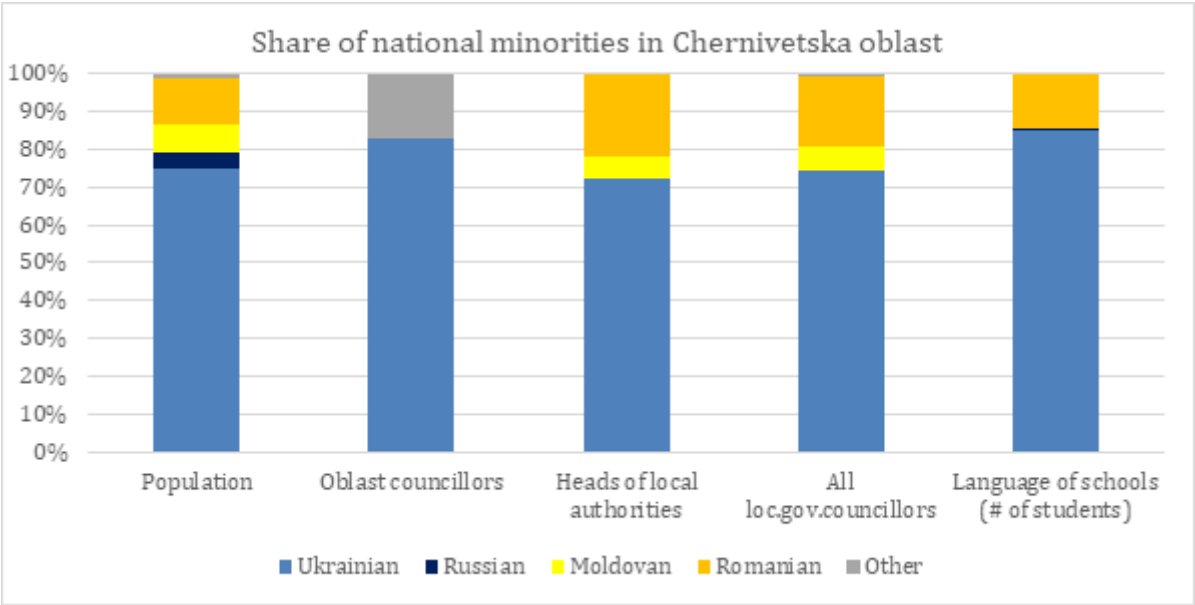
<sup>12</sup> It should be noted however, that collected data present only an approximate picture of the actual situation, and more data collection is required for a better understanding of the situation. It is because we have not been able to obtain data from all local communities. Especially the sample from Chernivtsi oblast is rather limited and we cannot be sure that the presented picture is fully representative. Similarly, data on the ethnic origin of chairs of the councils is not available.

proportional representation of national minorities in each of the local councils should result in the higher share of minorities among all councillors than in the total population of the oblast. But this sort of regularity cannot be observed in our data, which indirectly confirms underrepresentation of politicians recruited from national minorities groups.

Collected data reveal also differences between national minorities groups. Romanian minority in Chernivtsi oblast and Hungarian minority in Zakarpattya oblast seem to be the best organised and their political representation is much better than of other national minorities (e.g. Bulgarian, Moldovan, Russian, Gagauz, Roma etc.).

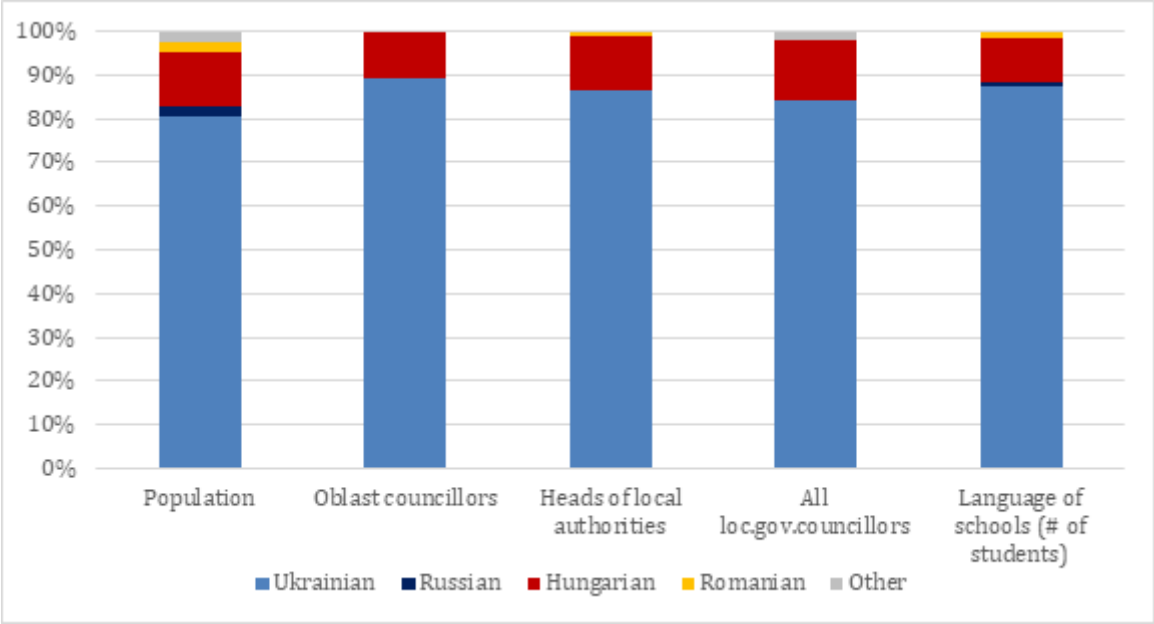
Unfortunately, available (as of September 2020) data does not allow to check how the territorial reform has changed the representation of national minorities in local political institutions. It is partially because new mayors and councils of recently administratively amalgamated communities are going to be elected on 25 October 2020 only (after the completion of the report). In remaining cases no data “before” and “after” the reform is available to analyse the impact of amalgamation reform.

**Fig. 7. Share of national minorities in Chernivtsi oblast**



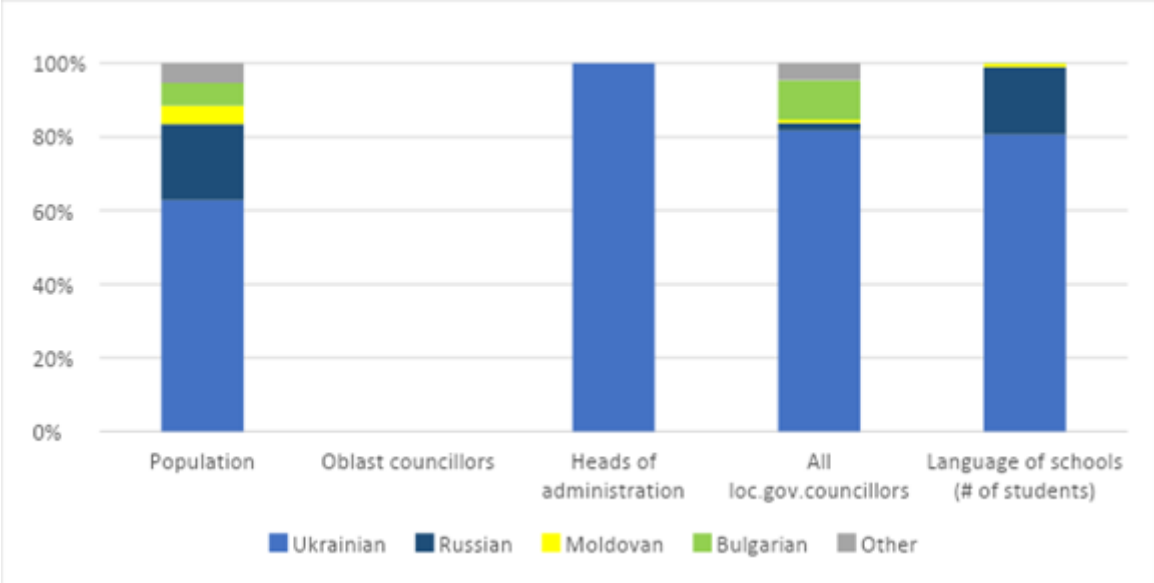
Note: population data from 2001, remaining data as of summer 2020; Available data do not allow to identify precise nationality of “other” councillors (who are not of Ukrainian nationality)

**Fig. 8. Share of national minorities in Zakarpattya oblast**



Note: population data from 2001, remaining data as of summer 2020

**Fig. 9. Share of national minorities in Odesa oblast**

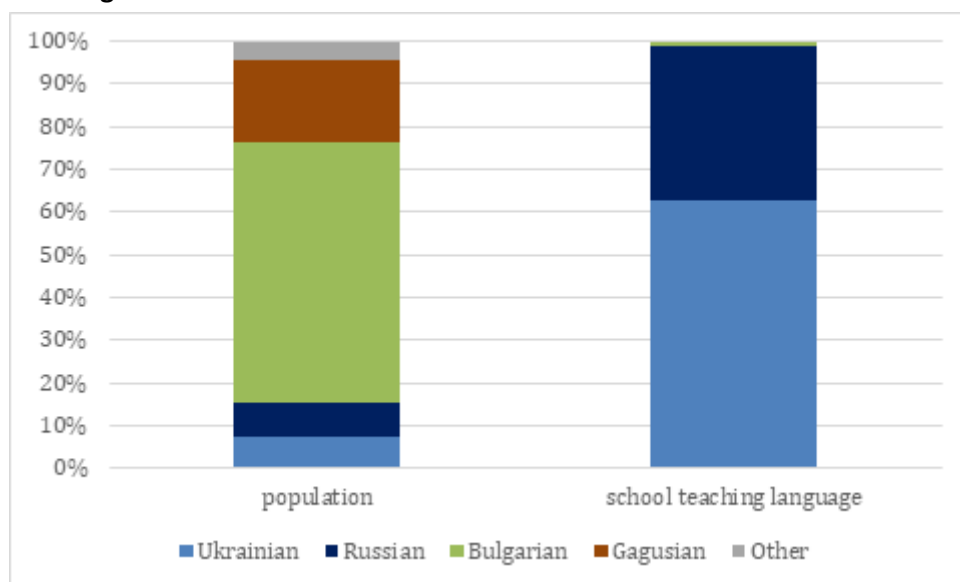


Note: population data from 2001, remaining data as of summer 2020. Data for oblast councillors is not available.

Another regularity which can be noted in data available is that the share of school students who learn in schools with national minority languages (as the language of instruction, which is used to teach all lessons in the school) is lower than the share of national minorities in the total population. The difference is relatively small in case of Hungarian minority in Zakarpattya, which means that Hungarian-language schools are relatively well developed and available. But in case of Romanian-language schools in Chernivtsi region and in case of Bulgarian-language schools in Odesa region, the difference is significant.

Bolhrad district of Odesa oblast (61% or 45.6 thousand of Bulgarians; 19% of Gagauz, 8% of Ukrainians and Russians each) provides an interesting case of Russian language domination in the Bulgarian minority location. 52% of school students in the district attend Russian-language schools (with Russian as a language of instruction). At the same time, there is only one village school in the district (with just 58 students in three classes), where Bulgarian is the language of instruction (see fig. 10).

Fig. 10. Distribution of population and school students in Bolhrad district, Odesa oblast by language of teaching



However, the difference is less dramatic if not only the main language of instruction in the school is considered, but also additional languages in which classes are organised (comp. table 2) are taken into account.

Table 2. Proportion of school students who are enrolled to schools which learn minority languages either as language of instruction or as additional language at school

	Chernivtsi oblast		Odesa oblast		Zakarpattya oblast	
	% of population	% of students in school	% of population	% of students in school	% of population	% of students in school
<b>Bulgarian</b>			6.1	2.2		
<b>Gagauz</b>			1.1	0.1		
<b>Hungarian</b>					12.1	14.7
<b>Moldovan</b>	7.3	0.0	5.0	2.1		
<b>Polish</b>	0.4	1.9	0.01	0.0		0.7
<b>Romanian</b>	12.5	15.2			2.6	2.0
<b>Russian</b>	4.1	1.6	20.7	84.7	2.5	12.7
<b>Slovak</b>					0.5	0.9

## 1.2. Overview of regulations on national minorities relevant to the decentralisation reform

The Constitution of Ukraine contains the basic principles of the three pillars of minority protection: preservation of cultural identity, equality and non-discrimination, and participation in public life. While the state ensures the comprehensive development and functioning of the Ukrainian language in all spheres of social life throughout the entire territory of Ukraine, the free development, use and protection of languages of national minorities is guaranteed (Article 10). Local state administrations must ensure on their respective territory the implementation of national and regional programmes for socio-economic and cultural development and — in places of compact residence of indigenous peoples and national minorities — programmes for their national and cultural development (Article 119). The state promotes the development of ethnic, cultural, linguistic and religious identity of all indigenous peoples and national minorities (Article 11) and guarantees in accordance with the law the right of citizens belonging to national minorities to receive instruction in their native language, or to study their native language in public schools and through national-cultural associations (Article 53). The Constitution contains a general equality clause and bans any discrimination based *inter alia* on race, colour of skin, religious beliefs, ethnic origin and language (Article 24). Ukrainian citizens have the right to freedom of association in political parties and public organisations (Article 36) and the right to freely elect and to be elected to state institutions and bodies of local self-government (Article 38).

National Minorities Law of 1992<sup>13</sup> of Ukraine is a basic framework law, which reaffirms the above constitutional principles but contains no detailed regulations regarding the exercise of minority rights linked to the three pillars of minority protection.

Ukraine signed and ratified the two main treaties of the Council of Europe that are relevant for the protection of minority rights and minority languages. The country signed the Framework Convention for the Protection of National Minorities (FCNM) in 1995 and the European Charter for Regional or Minority Languages (ECRML) in 1996. Ukraine ratified FCNM in 1998<sup>14</sup> and ECRML in 2005.<sup>15</sup> According to Article 16 of the FCNM “the Parties shall refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present framework Convention”, and according to Article 7 (1) b of the ECRML, the Ukrainian authorities “shall base their policies, legislation and practice” *inter alia* on “the respect of the geographical area of each regional or minority language in order to

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<sup>13</sup> Law no. 2494-XII of 25 June 1992 on national minorities in Ukraine.

<sup>14</sup> Law no. 703/97-BP of 9 December 1997 on the ratification of the Framework Convention for the Protection of National Minorities; [https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/157/signatures?p\\_auth=fwqVMhNk](https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/157/signatures?p_auth=fwqVMhNk).

<sup>15</sup> Law no. 802-IV of 15 May 2003 on the ratification of the European Charter for Regional or Minority Languages; <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/148/signatures>.

ensure that existing or new administrative divisions do not constitute an obstacle to the promotion of the regional or minority language in question”.

Regulations concerning education and the use of minority languages are essential for the **preservation of cultural identity** of national minorities. In 2017, Ukraine adopted a new Education Law<sup>16</sup> which has drawn strong criticism both domestically and internationally. The contested provisions concern instruction in minority languages. In its Opinion on the Education Law, the European Commission for Democracy through Law (Venice Commission)<sup>17</sup> of the Council of Europe acknowledged the guarantees for education in the minority languages in primary schools, but pointed out the negative impact of the significant reduction in teaching through the medium of a minority language in secondary education and also raised questions in the light of the principle of non-discrimination when it comes to distinction between official EU and other languages.

In 2019, Ukraine adopted a new State Language Law<sup>18</sup> which to a large extent reproduces the principles of the 2017 Education Law. The main lines of criticism concern reduced possibility of teaching in minority languages in secondary schools and distinction between official EU and other languages (the former having more rights).<sup>19</sup>

The 2019 State Language Law provides for the mandatory use of Ukrainian in the exercise of powers of government, including local governments. The law states that the use of minority languages in the spheres of public life shall be determined by a future law on the rights of national minorities of Ukraine, considering the principles laid down by the 2019 State Language Law. The Venice Commission concluded in its Opinion on the 2019 State Language Law<sup>20</sup> that it fails to strike a fair balance between the legitimate aim of strengthening and promoting the state language and safeguarding national minorities’ linguistic rights.

In January 2020, Ukraine adopted a Secondary Education Law<sup>21</sup> which follows partially the previous recommendations of the Venice Commission. The positive change regards the use of minority languages in private education – the law stipulates that private educational institutions which do not receive public funding have the right to freely choose the language of instruction while remaining under the obligation to ensure that students achieve proficiency in Ukrainian

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<sup>16</sup> Law no. 2145-VIII of 5 September 2017 on education.

<sup>17</sup> Venice Commission, Opinion No. 902/2017 on the provisions of the Law on Education of 5 September 2017 which concern the use of the state language and minority and other languages in education, CDL-AD(2017)030, Strasbourg, 11 December 2017 at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2017\)030-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2017)030-e)

<sup>18</sup> Law no. 2704-VIII of 25 April 2019 on ensuring the functioning of Ukrainian as the state language.

<sup>19</sup> For details see e.g. Venice Commission, Opinion No. 902/2017 on the provisions of the Law on Education of 5 September 2017. At the same time, the Constitutional Court of Ukraine has decided that the 2017 Education Law complies with the Constitution (Decision of the Grand Chamber of the Constitutional Court of Ukraine No. 10-p/2019 of 16 July 2019).

<sup>20</sup> Venice Commission, Opinion No. 960/2019 on the Law on supporting the functioning of the Ukrainian language as the state language, CDL-AD(2019)032, Strasbourg, 9 December 2019, at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2019\)032-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2019)032-e)

<sup>21</sup> Law no. 463-IX of 16 January 2020 on complete general secondary education.



according to state standards. However, the 2020 Secondary Education Law maintains the differential treatment between national minorities, which still raises concern as to their compatibility with the commitments of Ukraine under the FCNM and the ECRML. The teaching time foreseen by the law is lower than what the Committee of Experts of the ECRML has recommended concerning Russian in secondary education and concerning Bulgarian, German, Greek, Hungarian, Polish and Romanian in upper secondary education and needs to be extended.<sup>22</sup>

In the field of **equality and non-discrimination**, the main Ukrainian regulation is the Anti-discrimination Law (with subsequent amendments)<sup>23</sup> which prohibits any restriction of rights on several grounds including *inter alia* race, skin colour, religious beliefs, ethnic origin and language, however – in spite of subsequent amendments – in its 2017 Opinion on Ukraine, the Advisory Committee on the FCNM noted that the law still lacks an effective mechanism for monitoring its implementation.<sup>24</sup>

As regards the **participation in public life**, Ukraine’s electoral legislation does not contain special mechanisms (*e.g.* exemptions from electoral threshold, reserved seats) aiming to guarantee the representation of national minorities in elected bodies. According to the Electoral Code of Ukraine (as amended in July 2020),<sup>25</sup> a differentiated system of elections is used, depending on the number of residents in the community participating in the elections. Elections of deputies of village, settlement, city councils with up to 10, 000 voters are held by a majority system in multi-mandate constituencies (in each constituency, at least two and no more than four deputies may be elected). Elections to the Verkhovna Rada, regional, district, as well as local communities with over 10,000 voters are held according to the system of proportional representation through open electoral lists of local political party organisations in territorial constituencies. In addition, there is a 5% of valid votes threshold for the party list to participate in the division of seats in the respective council.

Ukraine’s legal framework provides for mechanisms for the implementation of the constitutional rights of citizens to participate in the management of state affairs.<sup>26</sup> These

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<sup>22</sup> See Second evaluation report of the Committee of Experts on the application of the Charter in Ukraine (ECRML(2014)3), paragraphs 110-111. Articles 8 (1) b(i)/c(i)/d(i) of the ECRML require education “in” the minority language. Furthermore, Articles 8 (1) b(ii)/c(ii)/d(ii) require a “substantial part” of education in the minority language, which in the Committee of Experts’ interpretation “implies that teaching in [the minority language] would have to take place for at least 50% of the school hours per week” (bilingual education, see *e.g.* Fifth evaluation report of the Committee of Experts on the application of the Charter in the Slovak Republic (CM(2019)126), paragraph 57). The undertakings ratified by Ukraine under Article 8 refer also to these educational models.

<sup>23</sup> Law no. 5207-VI of 6 September 2020 on the principles of preventing and counteracting discrimination in Ukraine.

<sup>24</sup> Fourth Opinion on Ukraine adopted by the Advisory Committee on the Framework Convention for the Protection of National Minorities on 10 March 2017, ACFC/OP/IV(2017)002, Strasbourg.

<sup>25</sup> Law no. 805-IX of 16 July 2020 on amendments to some legislative acts of Ukraine to improve the electoral legislation.

<sup>26</sup> President’s Decree no. 854 of 31 July 2004 on ensuring the conditions for wider public participation in the formation and implementation of state policy” and Cabinet of Ministers Resolution no. 1378 of 15 October 2004 “Some issues concerning public participation in the formation and implementation of state policy”.

regulations allow national minorities to participate in policy preparation processes, but they do not guarantee special representation for representatives of national minorities. At the central level, there are two main consultative bodies dealing with minority issues (Commission on Inter-Ethnic Relations and Cultural Diversity and the Council of Representatives of Civic Associations of Indigenous Peoples and National Minorities). There are no laws or regulations that oblige regional and local authorities to establish consultative bodies dealing with issues of interest for national minorities. Consultation mechanisms have been established in some oblasts (see section 4 of the report).

Finally, it is worth noting that according to Article 4 of the 2015 Law on voluntary amalgamation of territorial communities,<sup>27</sup> historical, natural, ethnic, cultural and other factors influencing the social and economic development of the amalgamated territorial community shall be taken into account when deciding on the voluntary amalgamation of territorial communities.

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<sup>27</sup> Law no. 157-VIII of 5 February 2015 on voluntary amalgamation of territorial communities.

## 2. Summary of the amalgamation and decentralisation reform in Ukraine

### 2.1. Amalgamation reform context and goals

Although during late 1990s and 2000s the issue of decentralisation was high on the political agenda,<sup>28</sup> in turbulent 2014 the reform was a rapid response to the challenge for Ukrainian state territorial integrity.<sup>29</sup>

During the 2004 presidential campaign the pro-Russian candidate Viktor Yanukovich promoted federalisation as a solution for diversification of Ukraine (opposing South and East vs. West and Central Ukraine).

The concept of devolving powers to the level of voluntary amalgamated communities (not to the regions) was supposed to strengthen Ukraine's resilience against Russian hybrid warfare and demonstrate compliance with democracy and subsidiarity principles.<sup>30</sup>

The Government of Ukraine launched the reform in April 2014 by approving the Concept of Local Self-Government Reform and the Territorial Organisation of Power in Ukraine in line with commitments under the European Charter of Local Self-Government (ECLSG). The reform includes consolidation of territorial communities, decentralisation of budget resources and powers in order to achieve<sup>31</sup> optimal allocation of powers between local governments and state administration and better quality and accessibility of public services. The reform was a part of a bold structural reforms' agenda, targeted both at national security challenges and traditional structural bottlenecks, corruption and governance inefficiency.

During 2015-2019 Ukraine was undergoing voluntary amalgamation of communities. In January 2019, the Government announced a road map for finalising the first phase of the decentralisation reform until autumn 2020, when local elections are to be held completely on

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<sup>28</sup> Administrative-territorial reform preparation was launched by adoption of the Constitution of Ukraine (June 1996), which replaced Soviet Constitution (1978). In 1998 President Kuchma approved the Concept of Administrative Reform, which included a section on Territorial structure and system of local self-government. A detailed framework for the reform was drawn up in 2005 by the vice prime minister Roman Bezsmertniy but has never been implemented. In 2009 the Concept of Local Self-Government Reform was approved by Yulia Tymoshenko Government.

<sup>29</sup> See "Decentralisation reform" in Sectoral Briefs on Reforms in Ukraine, Kyiv, 2019 at [https://rpr.org.ua/wp-content/uploads/2019/05/Brify\\_ENDlya\\_vebu.pdf](https://rpr.org.ua/wp-content/uploads/2019/05/Brify_ENDlya_vebu.pdf)

<sup>30</sup> Romanova, V. and Umland, A. (2019) 'Ukraine's Decentralisation Reforms Since 2014: Initial Achievements and Future Challenges' at <https://www.chathamhouse.org/sites/default/files/2019-09-24-UkraineDecentralization.pdf>

<sup>31</sup> According to the Concept of local self-government and territorial organisation of power reform in Ukraine, approved by the Cabinet of Ministers of Ukraine on April 1, 2014. Available at <https://zakon.rada.gov.ua/laws/show/333-2014-%D1%80#n8>

the new administrative-territorial system. Those communities, which have not been engaged in voluntary amalgamation, are to be merged by the decision of the Government of Ukraine, based on regional Prospective plans (so-called administrative amalgamation).

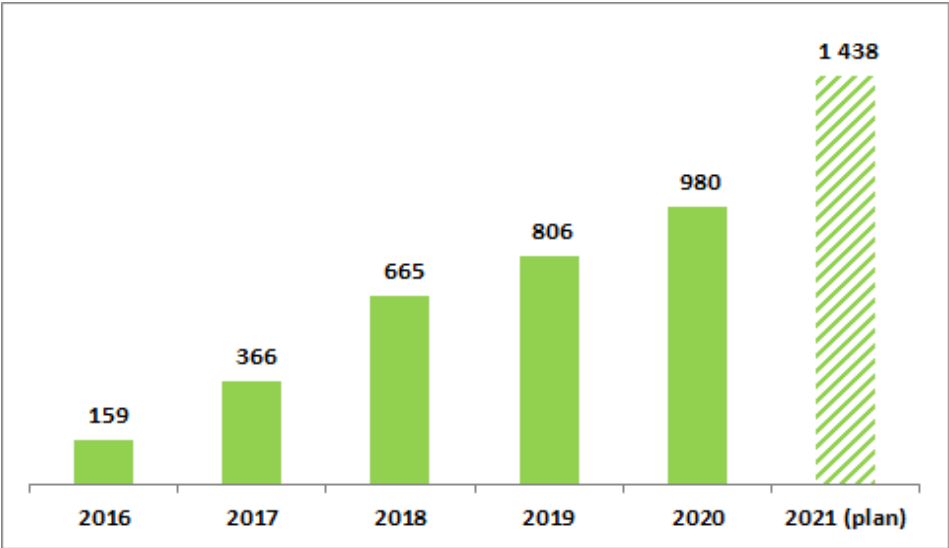
Consolidation is also slated for the district level of Ukraine’s local government: the number of districts has been decreased from 490 to 136 (including 17 districts on occupied territories of Donetsk and Luhansk oblasts and Crimea). Although in October 2020 councillors are to be elected to new district councils, their competencies are still unknown as well as a new model of administrative supervision at the sub-regional level (by presidentially appointed prefects and/or deconcentrated officials from line ministries), because the amendments to the Constitution and new versions of the laws on local self-government and on local state administrations have not been adopted.

Reform road map includes adoption of changes to the Constitution, which will also make decentralisation irrevocable and introduce administrative supervision of local self-governments (LSGs). Although in 2014 and 2015 the Parliament started consideration of relevant constitutional amendments; the draft law has not been passed yet.

## 2.2. Process of formation of new amalgamated communities

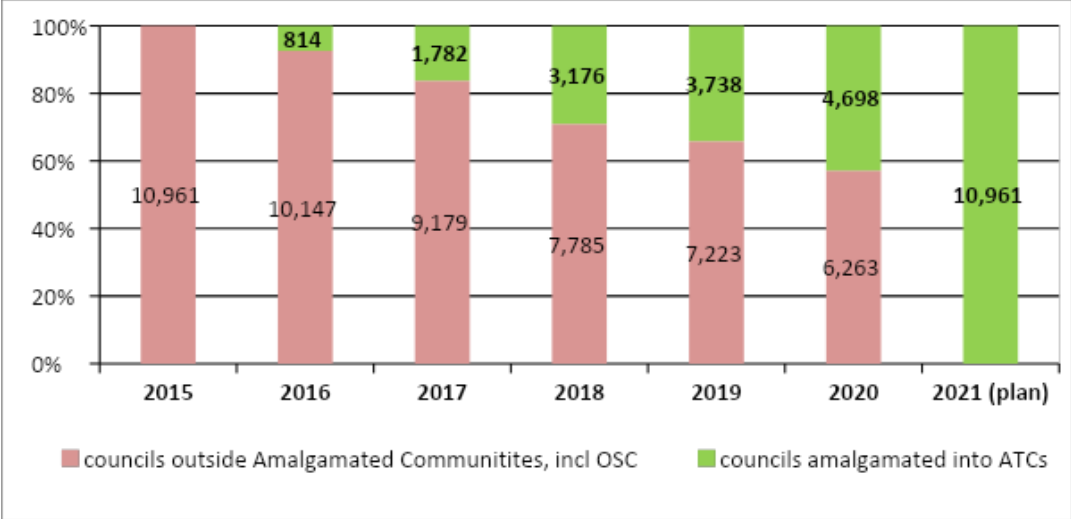
The 2015-2019 voluntary phase resulted in amalgamation of 4,698 communities (41% of total number of former communities) into 980 new communities. On average 4.6 communities amalgamated into an ATC with an average ATC population of 11,388 people.

Fig. 11. Number of amalgamated communities in Ukraine, as of January 1 (Source: Minregion<sup>32</sup>)



<sup>32</sup> Minregion Monitoring of the decentralisation and LSG reform as of Jan.10, 2020 at: <https://decentralization.gov.ua/uploads/library/file/526/10.01.2020.pdf>

Fig. 12. Number of community councils in Ukraine covered by amalgamation (voluntary amalgamation during 2016-2019), as of January 1 (Source: Minregion<sup>33</sup>)



As of September 2020, ATCs cover 53% of the territory of Ukraine outside cities of oblast status. One third of the total population of Ukraine now lives in ATCs. Another half are residents of cities of oblast status, which already enjoy strong and sustainable local self-government (especially after fiscal decentralisation since 2015) and typically have not participated in voluntary amalgamation so far. The rest of the population still live in communities that continue to suffer from weak local self-government and are largely ruled by state district administrations. These communities will be granted all the powers, responsibilities and subsidies associated with decentralisation only upon October 2020 local elections, which will complete formation of the basic level of LSG in Ukraine.

Voluntary amalgamation was encouraged by significant financial incentives (subventions for the development of ATC infrastructure, access to resources of the State Fund for Regional Development, etc.).

The OECD report “Maintaining the Momentum of Decentralisation in Ukraine” (2018) states that “[t]he voluntary amalgamation process can be considered highly successful by international standards. (...) The rate of success in voluntary amalgamation is unusual compared with the experience of OECD countries, where voluntary mergers have difficulty gaining traction.”<sup>34</sup>

Procedure of voluntary amalgamation started with initiating the proposal by a village, or town head or by 1/3 of members of local council or by local residents (as a local initiative), followed by public hearings and decision of the local council to support the proposal. If pre-amalgamation consultation is successful, a joint task force (with equal representation of engaged communities) is called upon to draft a package of amalgamation decisions to be adopted by every local council. At this step one more round of local public hearings is a must.

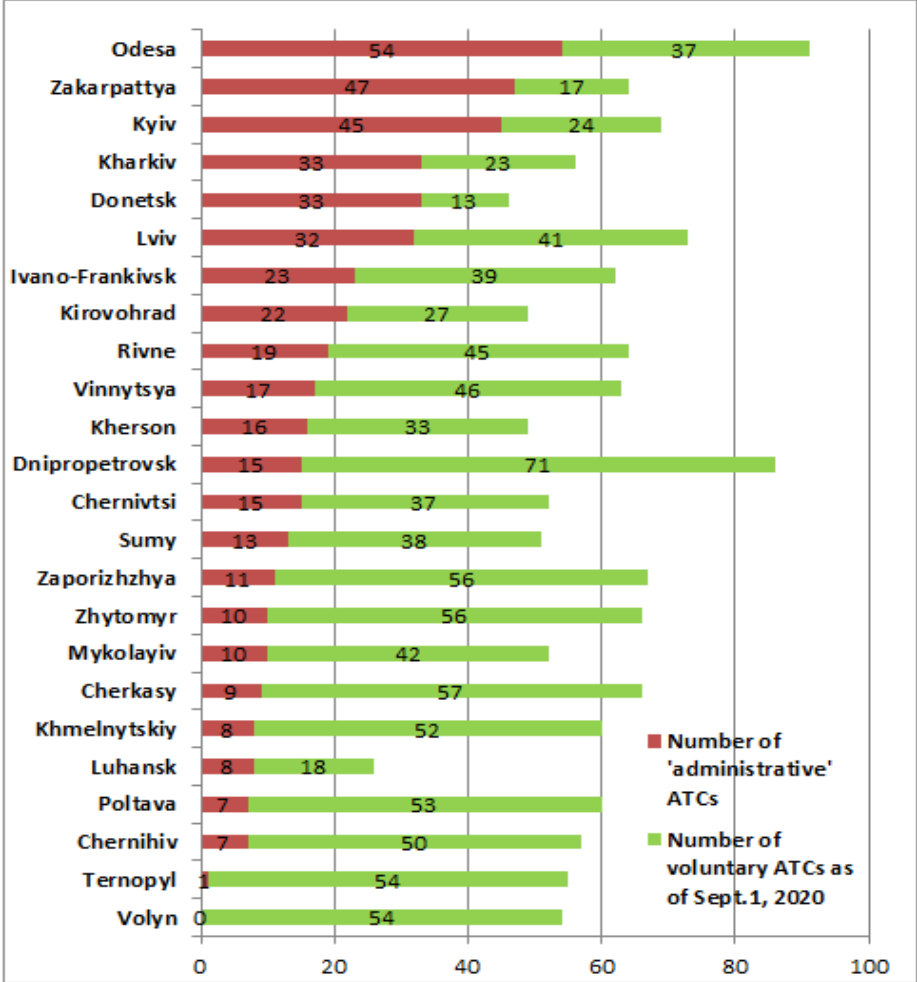
<sup>33</sup> Minregion Monitoring of the decentralisation and LSG reform as of Jan.10, 2020 at:

<https://decentralization.gov.ua/uploads/library/file/526/10.01.2020.pdf>

<sup>34</sup> “Maintaining the Momentum of Decentralisation in Ukraine”, OECD Multi-level Governance Studies, OECD Publishing, Paris, 2018, 23 and 129. Available at <http://www.oecd.org/countries/ukraine/maintaining-the-momentum-of-decentralisation-in-ukraine-9789264301436-en.htm>

The final step of the procedure is that the oblast state administration takes a formal decision on legal compliance of the local councils' decisions. On this basis the Central Election Commission calls first elections in amalgamated community.

Fig. 13. Breakdown of the total number of ATCs for the October 2020 elections per oblast: voluntary (as of September 1, 2020) vs 'administratively' amalgamated communities (Source: Minregion<sup>35</sup>)



Communities engaged in amalgamation must be situated within the same oblast but not necessarily within the same district. The key requirement to a new amalgamated community is to be capable in terms of public service delivery, local budget, human capital and infrastructure. Guidelines for capable amalgamated community establishment have been approved by the Cabinet of Ministers of Ukraine, which set up a number of criteria (such as a catchment area up to 20-25 km and/or 30 min; 250+ children of school age and 100+ children of preschool age).

In order to streamline the amalgamation process within a region every oblast council had to adopt a Prospective plan of communities' territories formation in a region subject to further approval by the Government of Ukraine. As of the end of 2015 (kick-off of the reform) all, but one (Zakarpattya region), oblast councils adopted such Prospective plans, although they did not

<sup>35</sup> Minregion Monitoring of the decentralisation and LSG reform as of Sept.10, 2020 at: [https://decentralization.gov.ua/uploads/library/file/593/%D0%9C%D0%BE%D0%BD%D1%82%D0%BE%D1%80%D0%B8%D0%BD%D0%B3\\_10.09.2020.pdf](https://decentralization.gov.ua/uploads/library/file/593/%D0%9C%D0%BE%D0%BD%D1%82%D0%BE%D1%80%D0%B8%D0%BD%D0%B3_10.09.2020.pdf)

cover 100% of relevant oblast territory. In May 2020, the Government of Ukraine upon proposals of oblast state administrations approved final version of 24 Prospective plans, thus providing 100% of the territory of Ukraine covered by amalgamation (1469 ATCs, including 31 ATCs on occupied territories of Donetsk and Lugansk oblasts). It should be noted that in half of the oblasts at least 3/4 of the planned number of ATCs have been already established on a voluntary basis, while in 5 oblasts 50% or more of planned number of ATCs will be formed administratively.

## **2.3. New competences**

Decentralisation reform aims to shift governing power, funding, and management responsibilities from the central and regional/sub-regional state authorities to new structures of local self-government. The reform devolved powers to amalgamated territorial communities (ATCs) so that they could provide expanded range of public services akin to a city of oblast status in Ukraine.

Major new competencies of the ATC are school education and primary health care as well as social care and protection, administrative services, land use, youth policy, which used to be responsibility of a district state administration and a city of oblast status. It should be stressed that during the last five years these sectors underwent bold reforms, especially regarding budget funding. Consequently, change of the governance level as a result of decentralisation often has been misinterpreted as a reason for sector reforms problems.

The ATCs are empowered to manage local schools and establish hub schools (with affiliated schools), which bring together the best available teaching and learning practices thus improving the quality of study for students of remote/small schools. As of September 2020, ATCs established almost half of hub schools in the country (457 out of total 950). ATCs and cities of oblast status are now responsible for 47% of all schools, while the rest remain administered by district state administrations.

The ATCs can also take on responsibility for providing public services within administrative service centres<sup>36</sup> (and their subdivisions) in remote territories. As of September 2020, 209 out of 848 administrative service centres in Ukraine are managed by ATCs.

Also, ATCs acquired new competencies for the local economic development in the field of land management, architecture and construction control. During 2016-2019 total of 1.45 million ha

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<sup>36</sup> Administrative service centre is a 'one-stop shop' of administrative service delivery for a resident, who previously (before 2014) had to visit several state institutions in order to receive a routine document (like residence certificate, birth certificate etc.). ASC can be established either by local state administration or by local self-government.

of agricultural land plots have been transferred from the state ownership (district state administration management) to the ownership of 646 ATCs.<sup>37</sup>

## 2.4. Degree of financial autonomy

Substantial fiscal decentralisation for all LSG was introduced in late 2014 when the Parliament amended the Budget and Tax Codes. These changes provided ATCs with budgetary privileges similar to those of cities of oblast status. ATCs have direct interbudgetary relations with the State budget. Consequently, funding of community budget does not depend on the upper-level budget (primarily the district) and the ATC does not need to coordinate its decisions with either the district or oblast state administrations.

The share of 60% of PIT revenues was shifted from district to ATC budget. Consequently, PIT revenues comprise an average 61% of ATC budgets in 2020; single tax and land fee are the second largest ATC budgets revenue sources (15% and 13% respectively).

The ATCs also receive transfers from the central government – including, until 2020, funds for establishing their newly merged institutional and social infrastructure. Special ‘equalisation’ grants became available for correcting disparities in local development between communities. Block grants for healthcare (until July 2018) and school education have further improved the financial capacities of the ATCs.

The level of local budgets’ own revenues increased more than 4 times (from UAH 68.6 or 5.1% of GDP in 2014 to 275 billion or 6.8% of GDP in 2019).<sup>38</sup>

## 2.5. Human resources (professionalisation of administration)

In January 2015, there were 84,500 officials in local governments<sup>39</sup> and 268,000 in central government.<sup>40</sup> The majority of local government officials (48%) were in towns and villages, while 45% worked in cities and 7% in Kyiv city and Sevastopol.<sup>41</sup> It is expected that the decentralisation reform will reduce the number of central government civil servants by about 30%. In turn, subnational governments will have to absorb part of this staff and recruit new employees to carry out the transferred functions. It will generate important challenges in terms of status, salaries, working conditions, mobility, etc.

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<sup>37</sup> Minregion Monitoring of the decentralisation and LSG reform as of Sept.10, 2020 at: [https://decentralization.gov.ua/uploads/library/file/593/%D0%9C%D0%BE%D0%BD%D1%82%D0%BE%D1%80%D0%B8%D0%BD%D0%B3\\_10.09.2020.pdf](https://decentralization.gov.ua/uploads/library/file/593/%D0%9C%D0%BE%D0%BD%D1%82%D0%BE%D1%80%D0%B8%D0%BD%D0%B3_10.09.2020.pdf)

<sup>38</sup> Ibid.

<sup>39</sup> Included in local government officials are those who work in councils and executive committees; not included are civil servants working for the state territorial administration (regions and districts) as well as education and healthcare workers.

<sup>40</sup> "Maintaining the Momentum of Decentralisation in Ukraine", OECD Multi-level Governance Studies, OECD Publishing, Paris, 2018, 240. The report is available online at <http://www.oecd.org/countries/ukraine/maintaining-the-momentum-of-decentralisation-in-ukraine-9789264301436-en.htm>

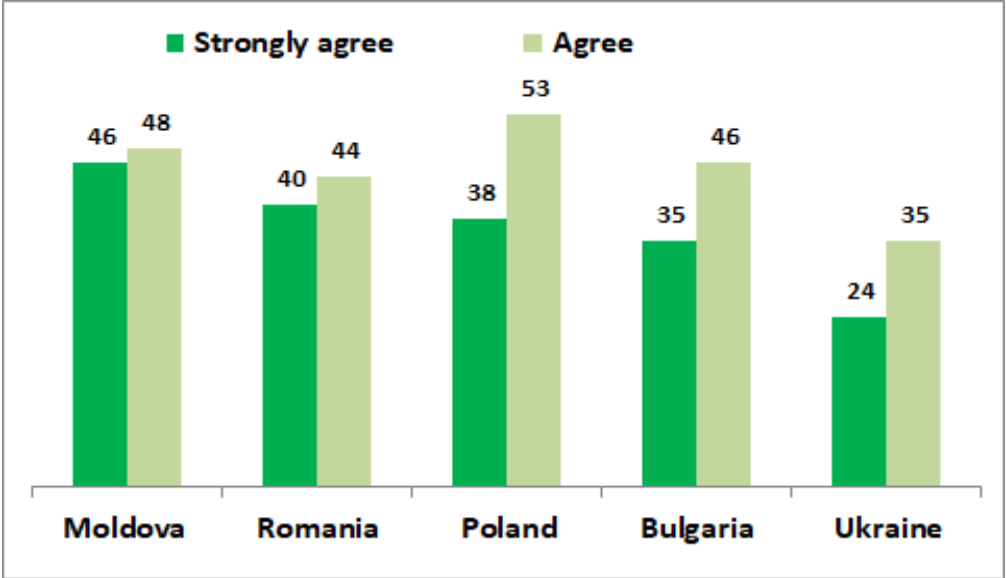
<sup>41</sup> Ibid.



As a comprehensive public administration reform in Ukraine is in the making, there are still severe capacity constraints on all levels of governance. Many regional and local authorities lack the knowledge and understanding to cope with widened responsibilities and are unable to take advantage of new possibilities. Newly formed ATCs face numerous legal, financial and governance challenges. The re-organisation of district and oblast level creates further demand for capacity building.<sup>42</sup> Also, the members of local governments themselves acknowledge the relatively low level of capacity and the need for professional development.<sup>43</sup>

Fundamental challenge of the decentralisation is the self-identification of residents with their local community. According to the World Values Survey,<sup>44</sup> there is poor local identification in Ukraine. Only 24% of respondents in Ukraine clearly consider themselves members of the local community, another 35% are more likely to agree with this statement. This is 1.5-2 times less than in Poland, Romania, Bulgaria, Moldova (see Figure 14).

Fig. 14. **Self - identification with the local community by respondents from different countries** (answers to question: “Would I see myself as a member of my local community?”; World Values Survey Wave 6: 2010-2014)



Sentiments of paternalism and nostalgia for the Soviet times also contribute to the human resource challenge of the ATC. Communist regime destroyed (esp. by repression, collectivisation, the 1932-33 Holodomor) national identities and horizontal interaction practices

<sup>42</sup> Action Document for U-LEAD with Europe: Phase II. Annex 2 of the Commission Implementing Decision on the 2019 Annual Action Programme (Part 1) in favour of Ukraine at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/annexes/c\\_2019\\_3711\\_f1\\_annex2\\_u\\_lead.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/annexes/c_2019_3711_f1_annex2_u_lead.pdf)

<sup>43</sup> For details, see Training Needs Analysis of LSG Authorities in Ukraine. Council of Europe Programme, Kyiv, 2019. [http://www.slg-coe.org.ua/wp-content/uploads/2019/07/TNA\\_Ukraine-2018-2019-Final-Report\\_eng.pdf](http://www.slg-coe.org.ua/wp-content/uploads/2019/07/TNA_Ukraine-2018-2019-Final-Report_eng.pdf)

<sup>44</sup> Inglehart, R., C. Haerpfer, A. Moreno, C. Welzel, K. Kizilova, J. Diez-Medrano, M. Lagos, P. Norris, E. Ponarin & B. Puranen et al. (eds.). 2014. World Values Survey: Round Six - Country-Pooled Datafile Version: <http://www.worldvaluessurvey.org/WVSDocumentationWV6.jsp>

in communities. Thus, according to a 2017 public opinion survey,<sup>45</sup> 27% of respondents in Ukraine still consider themselves as citizens of the former Soviet Union.

## 2.6. Main proponents and opponents of territorial reforms

During 2010-2013 President Yanukovich and his Government invested efforts into building a highly centralized administrative structure throughout Ukraine.<sup>46</sup> Therefore, the decentralisation was supported by public opinion leaders and new activists at local level, after the 2014 Revolution of Dignity. Massive launch of voluntary amalgamation of communities (esp. in the first year of the reform) became possible due to grass-root level efforts of the town and village mayors, as well as small and medium-sized businesses.

According to the project interviews their most frequent arguments were the following:

- Local government autonomy, ‘independence from the district authorities’ that used to shape almost all aspects of community life.<sup>47</sup>
- Closer oversight<sup>48</sup> and fairness of the allocation of local budget.<sup>49</sup>
- Better and closer public services to local residents.
- Potential for local development, including ability to manage land plots outside the settlements; access to substantial support from the state budget and international grants specially designated for ATC.

International donors provided generous support for the reform both at the national and local level. The largest interventions concerned are Local Government Development Centres in every oblast, funded by the “U-LEAD with Europe” programme,<sup>50</sup> undertook massive grass-root level reform promotion activities and supported development of amalgamated communities. The USAID programme entitled Decentralisation Offering Better Results and Efficiency (DOBRE<sup>51</sup>) during 2016-2020 provided logistical and consultancy support for 75 ATCs in 7 oblasts. A number of smaller targeted and sectoral interventions were funded and implemented by many other international organisations.

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<sup>45</sup> Conducted by the Razumkov Center on March 3-9, 2017 in all regions of Ukraine, except for the Crimea and occupied territories of Donetsk and Luhansk regions. 2,016 respondents were interviewed. The theoretical sampling error does not exceed 2.3%. [https://razumkov.org.ua/uploads/journal/eng/NSD169-170\\_2017\\_eng.pdf](https://razumkov.org.ua/uploads/journal/eng/NSD169-170_2017_eng.pdf)

<sup>46</sup> Despite promoting federalisation of the country in his 2004 election campaign (see also discussion in section 2.1)

<sup>47</sup> "We can implement in the community what we have long wanted, but the district authorities would not let us" (representative of oblast institution in Odesa oblast), "independence from the district [state administration], we can adopt collegial decisions at [community] public hearings" (regional expert in Chernivtsi oblast).

<sup>48</sup> "ATC is the authority at the fingertips" (ATC representative in Chernivtsi oblast).

<sup>49</sup> "to see our [the community budget] revenues and understand that we are living on what we've earned", "earlier the allocation of funds depended on the relationship between the mayor and the head of the district state administration" (ATC representative in Odesa oblast), "local businesses are getting tired to pay taxes in no-where [to the district budget]" (regional expert in Chernivtsi oblast).

<sup>50</sup> "Ukraine – Local Empowerment, Accountability and Development Programme" (U-LEAD with Europe) is a multi-donor action of the European Union and its Member States Denmark, Estonia, Germany, Poland and Sweden. For details, see <https://donors.decentralization.gov.ua/en/project/u-lead>

<sup>51</sup> For details, see <https://donors.decentralization.gov.ua/en/project/dobre>

At the national level it was difficult to hear major political parties opposing the reform as such. For obvious reasons, opposition was criticizing the Government, which handled simultaneously a number of sector reforms. So, decentralisation reform was associated with unpopular decisions of sector reforms (such as closing down of small schools, hospitals).

At regional and local level there are a few stakeholders, losing their power as a result of decentralisation. According to the interviews conducted within the project, district state administrations were among the first opponents of the reform. They were accompanied by village mayors, who had little chance to be elected as a new community mayor, and local business tycoons (esp. land plots tenants). In some regions regional or even national politicians (members of the Parliament of Ukraine, who were elected by local majority constituency) were active in blocking local communities' initiatives to voluntarily amalgamate.

The most common arguments against voluntary communities' amalgamation included the following:

- Loss of administrative centre status by the village/settlement, resulting in the diminished status of the village/settlement mayor, redundancies of the village council personnel and subsequently loss of local identity of remote villages, especially those with different ethnic structure.
- Risk of schools being closed or downgraded in the course of reorganising the network of educational institutions.
- Incapacity of ATCs in the proposed configuration, both fiscal<sup>52</sup> and managerial;<sup>53</sup> as well as mistrust in fair agreements with the future community partners, esp. regarding budget allocations.<sup>54</sup>
- Distrust to the central authorities.<sup>55</sup>
- The ATC village mayors would not be able to resist the influence of the local power brokers.
- Absence of roads, or poor condition thereof, between villages of the future ATCs that makes it difficult for locals to travel to access administrative services.

Cities of oblast status were not engaged in the amalgamation since their mayors and councils (elected in autumn 2015) did not want to run extra election campaigns as a result of amalgamation with neighbouring villages. The situation changed after April 2018 when an

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<sup>52</sup> "Communities will not be able to maintain schools and medical facilities" (representative of oblast institution in Odesa oblast).

<sup>53</sup> "No staff" (representative of oblast institution in Chernivtsi oblast), "You'll clash with each other [over the budget allocations]" (representative of oblast institution in Odesa oblast).

<sup>54</sup> Rural communities that were consolidating with the city feared that "the city would own all the available resources"; by contrast, phobias circulated among the city residents was that "all funds would be allocated to poor villages" (ATC representative in Chernivtsi oblast).

<sup>55</sup> "Not a single successful reform in 20 years", "The government (in Kyiv) will change and roll back the reform" (regional expert in Odesa oblast), "they forced us into collective farms once, and look what good it did us", "ATC perspective is too good to be true" (regional experts in Chernivtsi and Zakarpattya oblast).

amendment to the Law on voluntary amalgamation of territorial communities established a special accession procedure to the oblast status cities without elections.<sup>56</sup>

Even though during 2015-2019 the President Petro Poroshenko was promoting the reform; some oblast state administration management (appointees of the President) did not support the amalgamation efforts or even publicly opposed the reform. An illustrative example was H. Moskal, the head of Zakarpattya oblast state administration, who blocked the amalgamation process in the region. His key public argument was based on concerns of ethnic minorities conflicts and weakening national government power in this context.

## **2.7. Perception of positive and negative consequences of territorial reforms (non-related to national minorities)**

Quantitative assessment of the reform and its consequences is possible thanks to the Council of Europe supported national opinion polls related to decentralisation and local government reform complemented with opinion surveys of the ATCs residents.<sup>57</sup>

According to these public opinion surveys, conducted in August-September 2020, 59% of Ukrainians are convinced that decentralisation reform is necessary, and 74% of the population is aware of the reform. However, the level of awareness of the reform remained almost unchanged since 2015 with only 20% claiming that they are well-informed about the reform. The recent findings (report of 2020) demonstrated that better the population is aware of the reform, more it supports it (39% of support among those who have very limited knowledge on the reform against 81% among well informed respondents).

If in 2015 only 19% noted certain changes for the better in their settlement as a result of increased local budgets, in 2016 the share reached 46%. As of August-September 2020, 36% noticed certain changes, 24% have not noticed any changes personally yet, but have heard about them.

In response to the question about how the quality of services in the community has changed in specific spheres, 49% of Ukrainians recognise improvement due to the decentralisation reform in the sphere of road repairs and maintenance (15% see deterioration), and 40.5% see it in the sphere of maintenance of municipal public spaces (versus 12%). There is also a positive balance of evaluation of garbage collection (27% of respondents admit improvement versus 11% who see a deterioration).

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<sup>56</sup> Law no. 2379-VIII of 3 April 2018 amending the Law no. 157-VIII of 5 February 2015 on voluntary amalgamation of territorial communities. The amended Law provides a city of oblast status to be by definition recognized as a capable community. As a result, adjacent communities are merged with a city of oblast status according to a simplified procedure without holding elections of an ATC mayor and council. Ukrainian version is available at: <https://zakon.rada.gov.ua/laws/show/2379-19#Text>

<sup>57</sup> For details, see Reports at <http://www.slg-coe.org.ua/?lang=en>

Respondents were most critical of the situation in healthcare (37% noted deterioration in primary health care vs 13% noted an improvement). This sector is undergoing radical reform (esp. regarding financing model), which however has not been completed and got stuck in the middle, suffering frequent changes of the Ministry of Health leadership. Therefore, decentralisation influence is little if any in this sector.

Currently, the most expected result of the reform is reduced corruption: 58% of respondents listed this outcome into their top 3 expectations, and 39% named it as their “expected outcome No. 1.” The second place belongs to improved quality and accessibility of services (52% include it in their top 3, and 19% name it as their No. 1). Other expectations were less mentioned by the respondents.

The results of the above-mentioned survey find confirmation in semi-structured in-depth interviews conducted within this project frame in three target oblasts. All respondents, except for one, admitted that voluntary amalgamation of communities moves the country into the right direction. At the same time, the opponents of the reform in the current format said that “people's opinions had not been taken into account” and that the stage of voluntary amalgamation was “hasty”.

Talking about positive consequences of the reform, the respondents emphasized the opportunities for unleashing of local potential,<sup>58</sup> social and career growth for community residents, all-Ukrainian and international communication and cooperation opportunities.

Improvements of the local infrastructure (street lighting, repairs, playgrounds, etc.), equipment renovation and procurement for public-sector institutions (schools and community centres) were mentioned among the effective benefits of ATC establishment. Respondents also mentioned improved access and quality of administrative services,<sup>59</sup> health care,<sup>60</sup> and social services.<sup>61</sup> Also, some believe that ATC provides more opportunities to tackle challenges of school education in rural territories.

Meanwhile interviewers reported negative consequences of the amalgamation with the most frequently mentioned local budget funding problems.<sup>62</sup> Some respondents noticed marginalisation of remote villages within the ATC, close-down of small schools and other communal institutions in small villages, extraordinary costs of the ATC administrative staff.

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<sup>58</sup> “people are more active, they want to develop and participate in local projects” (respondents in Zakarpattya and Chernivtsi oblast), “now people feel like masters, they themselves begin to jointly influence the local development” (representative of oblast institution in Chernivtsi oblast).

<sup>59</sup> “an Administrative Service Centre was set up in the community” (ATCs’ representatives in Odesa and Zakarpattya oblasts).

<sup>60</sup> “through primary health care reform and outfitting of outpatient clinics through the local budgets” (ATC representative in Odesa oblast).

<sup>61</sup> “the Children Service [after ATC establishment] became proactive” (ATC representative in Odesa oblast).

<sup>62</sup> “every year the national Government is putting more and more [obligations related to] expenditures from state to local budgets”, “there is a lack of funding for recently established ATCs for implementation of their projects, which puts under the risk the reform in eyes of the communities’ residents” (ATC representative in Zakarpattya oblast).

Summing-up, positive perception of the impact of the reform clearly prevails both in the quantitative survey of citizens of all regions and in opinions of our respondents of in-depth interviews in three target regions.

### 3. The impact of decentralisation reform on national minorities

All categories of respondents (see Table 1 in the Introduction) have been asked to provide a general assessment of the decentralisation reform. According to an overwhelming majority of respondents, the amalgamation of territorial communities is a step into the right direction (see section 2.7 of this report). However, the opinions expressed by representatives of several national minorities NGOs and the so-called “umbrella organisations of national minorities”<sup>63</sup> are more diverse: a majority assessed the reform positively,<sup>64</sup> some noted that it is a step in the right direction, but it is too early to draw conclusions,<sup>65</sup> while one respondent held a negative view about the reform.<sup>66</sup>

**Access to information, awareness about the reform and consultations** are basic prerequisites for successful reform implementation. According to conducted interviews most leaders of national minority NGOs and umbrella organisations of national minorities noted extremely low quality of information, and sometimes even the lack of information about the reform in general, and about the advantages of forming amalgamated territorial communities in particular.<sup>67</sup> They pointed out that the reform’s opponents (see section 2.6) took advantage of the information vacuum to discredit the whole reform process.

In Chernivtsi, Zakarpattya and Odesa oblasts, a large majority of respondents reported a lack of proper information campaign about the decentralisation reform in general and the specific procedure for the amalgamation of territorial communities, as well as about the opportunities and benefits potentially available from implementing the reform. Most respondents emphasised the fact that the reform process has started without a stable legislative framework.

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<sup>63</sup> Umbrella organisations of national minorities are associations of various NGOs representing the national minorities of Ukraine or acting in the field of minority rights protection.

<sup>64</sup> “A positive step. An interesting and promising thing for the development of communities”; “A positive thing because it allows communities to work in different directions”; “A very positive process. This is one of the few reforms that have gone deep enough. It is very important for the future of Ukraine and for ethnic minorities, in particular.” (Leaders of national minority NGOs and umbrella organisations of national minorities).

<sup>65</sup> “A good deed spoiled by a human factor. The reform is a necessary endeavour, but it should have slightly different methods and approaches.”; “[T]he problem lies in details, and this is the principle of the formation of communities, elections in them, the accumulation of certain successful practices and feedback, which is very necessary for the state to analyse how the reform process is going. The change of power is also the risk (at the state level). The extent of power is imperceptible. The positive achievements of the previous government can be lost by the actions of the current government. The current government is more prone to centralisation. However, going back is impossible, since the communities have already felt the positives from decentralisation” (Leaders of national minority NGOs and umbrella organisations of national minorities).

<sup>66</sup> “Absolutely negative. This is not a reform of decentralisation, but of centralisation, it is completely negative. The country is moving in the wrong direction” (Leader of a national minority NGO).

<sup>67</sup> Meanwhile since the beginning of the reform in 2014, a broad information campaign has been launched by the Government with the support from international donors. A special Internet-platform has been settled - decentralisation.gov.ua - to cover all developments of the reform, and it was used by national and regional media. Despite these efforts, several respondents of our interviews were not reached by this information or considered it insufficient.

The continuous amendments of the law<sup>68</sup> undermined legal certainty and negatively affected the capacity of stakeholders to access clear and precise information. The limited access to reliable information created a credibility gap, fuelling rumours and disinformation. In Zakarpattya, most respondents pointed out that for years the oblast state administration not only did not provide the necessary information for the reform implementation, but it deliberately spread misinformation with the aim of stopping the process of amalgamation of territorial communities. In the case of Odesa oblast, according to the representatives of communities and local experts on decentralisation, politicians at the regional and national levels who actively opposed the reform promoted a disinformation campaign in mass-media and even resorted to open threats against proponents of the reform during public consultation events. While no consultations were specifically held with representatives from minority organisations during the amalgamation process, regional authorities of Chernivtsi oblast discussed the reform with village, settlement, city mayors and representatives of prospective ATCs.

Minority-related issues were discussed in public debates during the process of amalgamation of territorial communities, although they were not on the top of political agenda. Most leaders of national minority NGOs and umbrella organisations of national minorities acknowledged this fact and noted the presence of the ethnic factor among the criteria that influenced the ATC formation.<sup>69</sup> Interestingly, leaders of NGOs of national minorities expressed rather divergent opinions regarding the ethnic factor's relevance. Some of them reported that the ethnic criterion during the establishment of ATCs was not a priority and argued that the position of national minorities was not very much considered since the amalgamation took place according to economic criteria. But according to others (especially representing a geographically concentrated minority), the ethnic factor was taken into account in the case of the respective minority and, apart from a few individual exceptions, it was implemented. These divergent opinions seem to suggest that both minority-related and context-related factors played a role in whether ethnic and cultural aspects have been relevant during the process of voluntary amalgamation of territorial communities.

There are some significant differences between Chernivtsi, Zakarpattya and Odesa oblasts when it comes to the presence and persistence of minority-related issues in public debates about the reform. In Odesa oblast, most respondents pointed out that the opponents of the reform

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<sup>68</sup> Respondents in Chernivtsi and Zakarpattya oblasts pointed out the "continuous changes to the rules of the game". In Odesa oblast, leaders of the first ATCs and representatives of regional authorities admitted that the reform had begun within a legislative framework that was developed "while the reform went on". "The legislation was catching up with us" (Representative of the ATC established in the first wave of 2015).

<sup>69</sup> A number of respondents acknowledged the presence of ethnic factor but challenged its relevance. For instance, the leader of an NGO representing a small minority noted that the ethnic factor has no political significance for the respective minority and emphasized that minority members say "Yes, we are representatives of the [minority] community, but we are all Ukrainians; therefore, we work for the community, for Ukraine." Taking another example, the leader of an umbrella organisation of national minorities (who is also a representative of a geographically dispersed national minority) held the view that it was not necessary to unite communities on ethnicity principles but, on the contrary, it is necessary to stimulate the formation of polyethnic communities comprising both national minorities and Ukrainians. In his opinion, geographical, economic and infrastructural factors are important as they are decisive for the economic growth of communities, an increase in the level of well-being of its members, including those who belong to national minorities.



played the “ethnic card” to stir up fears and distrust among various ethnic groups living mostly in the southern part of the region. The amalgamation of territorial communities was portrayed as a zero-sum game in which one ethnic group loses and the other wins. Members of some national minorities started to perceive the reform as a threat to their community and rejected those initiatives aiming at establishing polyethnic ATCs. As an “us vs them” narrative emerged,<sup>70</sup> the whole process became highly politicized and the voluntary amalgamation was blocked. Consequently, there are only two voluntary ATCs in the southern part of Odesa oblast. In the period 2015-2019, only the district of Kiliya established Kiliya ATC and Vylkove ATC in 2017-2018. It is worth noting that, according to the respondents, communities located in northern and central parts of Odesa oblast (where the share of national minorities is rather small) were more supportive of the reform. In these areas, the voluntary amalgamation of neighbouring communities was based mainly on shared economic interests and administrative and technical criteria such as the financial and economic capacity of the future ATCs.

In Zakarpattya oblast, about half of the respondents (representing different categories of stakeholders) held the view that minority-related issues were absent from debates on decentralisation reform. However, the other group of respondents argued that such issues did come up in the public discourse promoted, for instance, by opponents of the reform in the oblast state administration and oblast council. Individuals who occupied leadership positions in the oblast administration alleged that the decentralisation reform carries the risk of encouraging separatist tendencies. They opposed the amalgamation of territorial communities on the ground that national minorities (such as Hungarian minority in Zakarpattya) would establish monoethnic ATCs which would lead to ethnic conflict and separatism. Local business circles aiming to safeguard their economic interests made similar claims<sup>71</sup> when they lobbied to exclude the Vyshkivska ATC from the oblast Prospective plan, in order to include in the Khust ATC those territorial communities of Vyshkivska ATC that comprise a tourist resort. Another illustrative example of controversial minority-related debates during the process of territorial amalgamation regards the Velyky Berezny ATC. Representatives of some territorial communities of Velyky Berezny initially refused to accept the amalgamation with a neighbouring community with a significant Roma population. This ethnic prejudice against the Roma minority contributed to the delay in the establishment of the Velyky Berezny ATC. All in all, according to most of the respondents, in Zakarpattya oblast the process of voluntary amalgamation was based mostly on

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<sup>70</sup> Several respondents reported hearing in public meetings harsh statements such as: “A Moldovan elected mayor will never rule over Bulgarians!”, “The Gagauz will never bow to Bulgarians!”. The Bolhrad district case was an example of community amalgamation conflict most frequently cited during the meetings. According to most respondents, the conflict was fuelled by regional and national politicians. Local opinion leaders perceived the voluntary community amalgamation as a challenge to the very existence of Bolhrad district. An emotional slogan emerged, “No way to destroy Bolhrad district, the cradle of Bulgarians!”. The discussion of the new district configuration also fuelled the conflict in early 2020, culminating in a statement issued by the Bulgarian Parliament. A local respondent stressed, that “ardent supporters of the interests of Bolhrad district are now running (as candidates) for elections in the ATCs, and not in the district council! It turns out that people were encouraged to fight for the district, but the fight, in fact, turned out to be phony!”.

<sup>71</sup> “The oligarchs of Khust wanted to include the Vyshkiv community in the Khust ATC. One of their arguments in favour of adding the village of Vyshkovo to the Khust ATC was the myth of Hungarian villages’ separatism” (Local expert on decentralisation reform, Zakarpattya oblast).

geographical, administrative and economic factors while taking into consideration the position of minority communities as well.<sup>72</sup>

In Chernivtsi oblast, the respondents seem to agree that generally no sensitive minority-related issue has been at the forefront of debates around the decentralisation reform. On the one hand, the political discourse at the regional level did not focus on ethno-cultural aspects of the territorial communities' amalgamation and, on the other hand, the representatives of polyethnic communities were most actively involved in the process, arguing that the reform offers additional opportunities for economic development. According to the respondents, the main organisations of national minorities living in the oblast did not take a political stand and chose to intervene only when there was a clear risk that decisions taken within the reform process would have a negative impact on the rights of national minorities. The only found example of such an intervention was the opposition of the "Mihai Eminescu Society for Romanian Culture" to the downgrading of Romanian-language schools which were to become branches of the first Ukrainian-language hub school in Mamalyha ATC. The Society helped with legal support for the lawsuit, thereby restoring the legal status of Romanian-language schools.

Most respondents pointed out that during the process of voluntary amalgamation, the boundaries of the newly formed ATC were determined following horizontal agreements reached by the communities themselves based mostly on administrative and technical criteria. While traditional ties between communities, geographical expediency and willingness to negotiate played an essential role in the process, the ethnic composition of the population was generally not a key factor.<sup>73</sup> Respondents pointed out that communities with Ukrainian majority population generally regarded amalgamation with more affluent communities with Romanian majority population as a chance for further development and an opportunity to raise additional resources and cooperate with Romania within the framework of EU-funded projects.<sup>74</sup> An example is amalgamation of the wealthy Romanian-speaking village of Voloka/Voloca with the Ukrainian-speaking village of Valia Kuzmina. The latter received significant funds from the ATC budget to upgrade its infrastructure.

This brings us to the issue of **hopes and fears linked to decentralisation reform**. Leaders of national minority NGOs and umbrella organisations of national minorities reported that the formation of amalgamated territorial communities does not affect the interaction and relations between different ethnic groups. Most of them as well as most respondents in Chernivtsi, Zakarpattia and Odesa oblasts acknowledged that decentralisation brought several decisions

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<sup>72</sup> Respondents cited examples of Hungarian-speaking communities merging with Ukrainian-speaking communities rather than Hungarian ones because it was economically beneficial for them to do so. An example is the amalgamation of the Kholmets village which has a significant Hungarian population with the rich Ukrainian village of Baranyntsi/Baranya. The leader of a national minority NGO estimated that 92 villages with Hungarian population will become part of 10 ATCs and that Hungarians will constitute the majority population in eight ATCs.

<sup>73</sup> Respondents provided the example of two Romanian-speaking rural communities (Cheresh/Cireş and Budyntsi) that challenged in court their administrative amalgamation with the Romanian-speaking Chudei/Ciudei ATC because they wanted to join the Ukrainian-Romanian Storozhynets/Storojineţ ATC.

<sup>74</sup> In this context, it is also worth mentioning the ongoing initiative to establish a cooperation between the Mukachevo ATC in Zakarpattia oblast and the region of Oberfranken in Bavaria. Mukachevo ATC includes the village of Pavshyno/Pausching in which a third of the population belongs to the German minority.

closer to local communities. Thus, the reform increased the chances of better tailored policies to local needs and this is expected to have a positive impact especially on geographically concentrated minority communities (for the main arguments in favour of the reform, see section 2.6 of the report).

Positive changes noted by representatives of national minority NGOs and umbrella organisations of national minorities include *inter alia* financial autonomy, improvement of infrastructure and services, opportunities to participate in decision-making regarding education<sup>75</sup> and teaching in or of minority languages,<sup>76</sup> participation in community development,<sup>77</sup> and revitalisation of cross-border cooperation<sup>78</sup> and possibility of attracting funds from the European Union. Generally, these positive changes were reported by representatives of some national minorities, while representatives of other minorities did not see any positives of the reform and changes in people's lives after the amalgamation of territorial communities. Negative consequences, challenges or risks linked to the reform's implementation reported by representatives of national minority NGOs and umbrella organisations of national minorities include *inter alia* loss of legal personality of villages inhabited by national minorities,<sup>79</sup> closure or downgrading of schools in such villages and less opportunities to use of minority languages in the public sphere, brain-drain and loss of linguistic and cultural identity in rural communities,<sup>80</sup> less opportunities for national minorities to be represented at ATC level (especially for the Roma minority)<sup>81</sup> and to influence decision-making,

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<sup>75</sup> "Pavshyno used to be a separate village, but now it is amalgamated to the Mukachevo ATC and, from our point of view, it gives more opportunities to the German community of Pavshyno/Pausching to join the processes of forming the educational agenda for the German language in schools." (Leader of a national minority NGO).

<sup>76</sup> "If the territorial community unites - Gagauz, Moldovan, Greek villages in one single community and children who go to one single school. At first it was said that there were problems with learning different languages. Then we discussed this point a few times and found such an exclusive moment - so good! Let the children study, know Gagauz as their native language, of course - Ukrainian, some other foreign languages." (Leader of an umbrella organisation of national minorities).

<sup>77</sup> "People felt themselves to be masters; they begin to jointly influence the development of the community and the region" (Leader of an umbrella organisation of national minorities).

<sup>78</sup> "ATCs will have the opportunity to develop green tourism, use the proximity of borders and cross-border connections. All these opportunities appear for new communities." (Leader of a national minority NGO).

<sup>79</sup> "If all educational, social and financial institutions were taken from the village, there is no village council, no notary, no firemen, or even a police station, then what services we would talk about. Not to mention also the state of local roads. (...) In the future, it may have a negative aspect in the ethnic sense, because the impoverishment of these communities and territories will lead to degradation, to the fact that people will leave these territories. At the same time, those villages inhabited by national minorities that joined the cities found themselves in a slightly better economic situation, but they lost their legal personality and became not even suburbs, but who knows what in these cities." (Leader of a national minority NGO).

<sup>80</sup> The leader of a national minority NGO noted that in the southern part of Odesa oblast many nationalities have lived peacefully together for centuries. The reform has introduced certain adjustments, but certain disagreements arose. According to him, people are afraid of losing their identity in amalgamated polyethnic territorial communities, of losing their culture and language.

<sup>81</sup> "There are communities where a third part of the population is Roma, but there is not a single representative of the Roma minority in the local authorities. Unfortunately, the approved community development plans do not contain items on the development and support of national minorities. Local authorities say that Roma people are part of the community, but it is not reflected in practice and in documents." (Leader of a national minority NGO).

and decrease in the level of professionalism and qualifications of civil servants of LSGs. The majority of respondents mentioned some of these negative consequences, challenges or risks.

While Chernivtsi, Zakarpattya and Odesa oblasts have a long history of peaceful coexistence of various ethnic groups, the reform triggered rather different responses on the ground. Public debates in the southern part of Odesa oblast focused primarily on potential risks carried by the reform, exacerbating fears related to national identity preservation and access to resources. According to most respondents, positive expectations vis-à-vis the reform have been overshadowed by a fear-based narrative portraying the reform as an existential threat to certain communities of national minorities. At the same time, the public discourse in Chernivtsi oblast was rather balanced as it emphasised potential benefits of the reform (*e.g.* increasing economic capacity, improving the quality of public services) as well as legitimate concerns (*e.g.* closure or downgrading of schools, unfair distribution of resources) without focusing specifically on minority-related issues. While organisations of national minorities have been active in defending minority rights during the on-going reform, the process of amalgamation of territorial communities did not seem to alter the overall climate of mutual trust, cooperation and good inter-ethnic relations. Finally, it is worth noting the rather peculiar situation encountered in Zakarpattya oblast. Here the decentralisation reform has been publicly debated in terms of both opportunities and risks, but according to most respondents the oblast leadership attempted to derail the whole process by stirring up fears of ethnic separatism. As in Odesa oblast, certain regional actors used the public stage to portray the reform as a threat. The difference is that in Zakarpattya the alleged threat went bottom-up (*i.e.* the reform allows national minorities to create monoethnic ATCs which will undermine the territorial integrity of the state), while in Odesa it had a top-down dynamic (*i.e.* the reform allows the state to take measures that will “destroy” a certain district, which will have a negative impact on national minorities unless the monoethnic character of their communities is preserved).

The precise **ethnic composition of the established ATCs** in the three oblasts will be known only after the results of the next national census will be published. However, a tentative overall picture of the share of monoethnic/polyethnic ATCs may be provided. The final version of the Chernivtsi oblast Prospective plan contains 52 ATCs. In 16 of them residents belonging to a national minority represent more than 50% of the population. Romanians are in majority in 11 ATCs and Moldovans in five ATCs. According to the latest version of the Zakarpattya oblast Prospective plan adopted in May 2020, there will be 64 ATCs in the oblast.<sup>82</sup> There is no clear information regarding the share of monoethnic/polyethnic ATCs in Zakarpattya oblast. However, according to the respondents, around 20 ATCs are located in the foothill and mountainous areas where the majority population is Ukrainian. The remaining ACTs cover the plains where there are several territorial communities in which Hungarians (and in some cases Romanians) represent the majority population. The respondents pointed out that most of the newly established ATC are polyethnic while only two are monoethnic: Solotvyno/Slatina, and Berehove/Beregszász (with Romanian and Hungarian majority populations respectively). The

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<sup>82</sup> As already discussed in chapter 2, currently there are only 27 ATCs in Zakarpattya and other 37 eventually have been established through administrative amalgamation.

Odesa oblast Prospective plan foresees the establishment of 91 ATCs but 54 of them will be established through administrative amalgamation. Currently there is no clear information regarding their ethnic structure. In seven districts and one oblast status city located in the southern part of Odesa oblast, the share of residents belonging to national minorities is more than 50% of the population. Out of the seven polyethnic districts, only Kiliya district has two polyethnic ATCs (Kiliya and Vylkove) which have a significant Russian Lipovan population.

Only three leaders of national minority NGOs and umbrella organisations of national minorities expressed their opinion regarding the **use of minority languages in relations with local authorities and in the public sphere**, in the context of the decentralisation reform. The representatives of two national minorities raised concerns regarding the negative impact of the 2019 State Language Law (see section 1.2),<sup>83</sup> while the leader of an umbrella organisation (who is also a representative of a geographically dispersed national minority) recalled the unbalanced approach of the 2012 State Language Law<sup>84</sup> and expressed support for a minimum level of language rights at local level (*i.e.* access to information in minority languages). These opinions illustrate well the different needs and expectations of national minorities in Ukraine. The respondents were often not making the distinction between decentralisation, education and language policy reform. While they are separate and have different goals, they do have an intertwined effect on the life of the national minorities and cannot be assessed completely separately.

While most respondents in Chernivtsi, Zakarpattya and Odesa declared that there have been no changes regarding the use of minority languages following the establishment of the ATCs, it must be noted that the previous reports of the Committee of Experts of the ECRML pointed to a very weak use of minority languages in public administration already before the reforms. Interviews in the three oblasts show a general perception of no intertwined impact of decentralisation and the mandatory use of the state language, in accordance with the 2019 State Language Law. Most respondents believe that there will be no negative impact regarding the use of minority language(s) in local government bodies, and in relation to place names and topographical indications (*e.g.* street names). An example provided by the respondents in which ATCs' authorities took measures to ensure the use of minority languages to make administrative services more linguistically accessible, is the Storozhynets/Storojineț ATC (in Chernivtsi oblast) that organised one-year Romanian-language courses for state registrars.

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<sup>83</sup> According to [the 2019 State Language Law], all meetings and communication in the official premises must take place in Ukrainian, regardless of the ethnic composition of the settlement. Of course, in many places, this will not be able to happen and will cause certain conflicts. Or there will be a disregard for legislation. In a village inhabited by the national minority, to make decisions (by the local Council) using the state language what pasture the shepherd should take the cattle to... it will make everything much more difficult." (Leader of a national minority NGO); "The central government does not take into account the demands of [minority language speakers]. This causes tension in society, which will only grow. To relieve this tension, it is necessary to amend the laws regulating the use of the state language, as well as the languages of national minorities in Ukraine." (Leader of a national minority NGO).

<sup>84</sup> Law No. 5029-VI of 3 July 2012 on principles of the state language policy. This Law has been controversial since its adoption. It has been criticized for failing to promote the state language as the main language of communication, and for failing to protect the languages of small national minorities. In 2018, the 2012 State Language Law was declared unconstitutional by the Constitutional Court.

Approximately half of the leaders of national minority NGOs that have been interviewed addressed the issue of **education of national minorities** in the context of decentralisation reform. While the representatives of some of national minorities expressed concerns regarding downgrading or closure of minority schools,<sup>85</sup> the representatives of other minorities highlighted the risk that public schools abandon the teaching of minority languages in favour of other languages because of economical and logistical reasons.<sup>86</sup> In contrast, the only leader of an umbrella organisation who addressed the issue of education emphasized the importance of improving the teaching of the state language in schools with instruction in minority language.<sup>87</sup> In his view, a capable community that has adequate means and leadership will meet the needs of national minorities in the ATC at the highest level in all policy areas, including education. As in the case of the use of minority languages in relations with public authorities, the opinions of minority representatives (or lack thereof) reflect the different needs and expectations of national minorities.

Respondents in Chernivtsi, Zakarpattia and Odesa oblasts reported a high level of awareness about education-related issues. It appears clear that the three oblasts witnessed vivid debates in the public sphere about the potential intertwined impact of decentralisation and education reforms. Several of our respondents acknowledged that minority language education remains a sensitive issue. Most of them pointed out that the main concerns regard the foreseen transition from minority language education to Ukrainian as the medium of instruction and the potential closure or downgrading of some schools with instruction in minority languages. Additional challenges identified by the respondents are the prohibitive cost of publishing textbooks in minority languages,<sup>88</sup> migration and brain drain,<sup>89</sup> the dominant role of Russian language of

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<sup>85</sup> "The closing of schools will cause the failure of culture (deculturisation) in ethnic villages – the village will be deprived of the pedagogical community, which is the main stratum of the rural intelligentsia. Consequently, the impact of the reform of decentralisation (which is, in fact, centralisation) and the formation of ATC will make a fully negative impact on the educational and cultural level of settlements where national minorities live densely." (Leader of a national minority NGO); "The influence is negative, schools are being enlarged, hub schools are being introduced. The number of [minority-language] schools has significantly decreased in the country." (Leader of a national minority NGO).

<sup>86</sup> "The risks are that parents may be asked to pay attention to English (...) or offer to reduce the burden on the child and abandon a second foreign language but keep Russian (...). There are many schools that economically prefer Russian as a second foreign language (...); they might prefer it in the long run, let's say it more diplomatically, because it is economically very profitable for the school and easier, because almost every teacher can teach Russian, but not everyone can teach a national minority language or languages of the European Union." (Leader of a national minority NGO).

<sup>87</sup> "I am completely in favour of the Ukrainian language being the only state language. Fully. From the first day until the end I will stand on it. But the state must ensure that in those regions where national minorities live, there are enough teachers, enough textbooks, dictionaries, manuals [for teaching the state language]. It's not easy to say de facto - teach Ukrainian, that's all. Therefore, transients are needed." (Leader of an umbrella organisation of national minorities).

<sup>88</sup> An example given in the Chernivtsi oblast was that a textbook published in Ukrainian costs UAH 70, while the same textbook published in Romanian costs UAH 270. Without state financial support, such a large discrepancy in price would hinder education in minority languages. According to the Ministry of Education based on the law the state guarantees free provision of textbooks and manuals for all pupils receiving general secondary education and to the pedagogical staff.

instruction at schools attended by non-Russian minorities<sup>90</sup> and the access to education of Roma minority.

There is a particularly interesting case of a school in Krasnosilsk ATC (Odesa oblast) where a third of 200 students are Roma. As a result of the targeted campaign, more and more Roma children complete school education. In addition, the community has launched other activities targeted at Roma community, including a Roma theatre and plans to open an evening school for Roma adults. The programme seems to be successful with positive side effects such as more often applications of Roma residents for identity documents and more active usage of various public services.

Teaching in or of minority languages in schools of ATCs depends, on the one hand, on whether there is interest in such type of education on the part of the local population and, on the other hand, whether local authorities are proactive and take the necessary measures. Respondents from Odesa oblast provided two illustrative examples in this regard. Over the past years, only one school in Krasnosilsk ATC has tried to introduce elective courses of Bulgarian and Greek languages, but the local population did not show interest in this initiative. However, in the south-west part of the oblast (*i.e.* Kiliya, Tatarbunary, Bolhrad), there is a common practice of Bulgarian organisations (*e.g.* Association of Bulgarians, Congress of Bulgarians, Bulgarian Bessarabian Cultural Society) to offer language courses in so-called “Sunday school” classes. The organisations pay the teachers while the ATCs’ authorities provide the premises (*e.g.* libraries or other public institutions). Interviews did not give a definite answer on why Bulgarian language education is not available in the public schools’ curricula, but one of respondents declared that authorities of the new ATC are ready to consider such an education if there is a demand from the local community.

An interesting multilingual education project initiated by the Ministry of Education and Science and supported by the OSCE High Commissioner on National Minorities involves four educational institutions in the Chernivtsi oblast. The project offers the opportunity to study subjects in different languages simultaneously. One of the educational institutions involved – the Novoselytsia/Noua Suliță District Lyceum has parallel classes with Ukrainian and Romanian language of instruction. French as a foreign language is taught to the Romanian classes, while English to the Ukrainian classes.

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<sup>89</sup> “Many Bulgarian teenagers leave for Bulgaria to study as it offers preferential admission to such applicants. In the end, they do not return to Ukraine because they stay in Bulgaria to work, however in most cases as unskilled blue-collar workers” (Representatives of Bolhrad district of Odesa oblast).

<sup>90</sup> For example, according to Bolhrad district state administration (Odesa oblast) data, 52% of school students in the district attend Russian-language schools (with all subjects being taught in Russian). There is only one school in the district, where Bulgarian is the teaching language, however only in three classes with 58 students. According to the 2001 census, the ethnic structure of the Bolhrad district is the following: 61% Bulgarians, 19% Gagauz, 8% Ukrainians and Russians each, 3% Albanians and 1% Moldovans.

## 4. Participation of national minorities in decision making of ATCs

According to the Ukrainian Constitution, domestic laws and ratified international conventions such as the FCNM and ECRML, the state has the obligation to create the necessary conditions for an effective participation of national minorities in public affairs. The effectiveness of participation of national minorities is ensured by establishing a legal-institutional framework which provides for the **representation** of and **consultation** with national minorities and ensures the **influence** of national minorities on the decision-making process.

A 2020 sociological survey commissioned by the Council of Europe<sup>91</sup> asked the respondents living in polyethnic communities about the impact of national minorities on decision-making at local level: 34% of them believe that national minorities influence local decision-making, while 44% express the opposite view. Moreover, 29% of these respondents believe that national minorities have a positive impact on the overall situation in their community, while 8.5% express the opposite view. According to the 2020 sociological survey, 25% of all respondents believe that the polyethnic nature of a community creates additional advantages and opportunities for its development.

The overwhelming majority of leaders of national minority NGOs and umbrella organisations of national minorities reported an active participation of national minorities (with the exception of Roma)<sup>92</sup> in public life, in general. The respondents held more diverse and contradictory opinions regarding the participation of national minorities in elections and their representation, in the context of the decentralisation reform. On one hand, according to the representative of a geographically dispersed national minority and the leader of an umbrella organisation of national minorities, the reform has created the conditions for improving the representation of national minorities in elected bodies.<sup>93</sup> On the other hand, several respondents expressed the view that there are no opportunities for national minorities to be proportionally represented in the ATC governing bodies and/or criticised the new electoral rules which introduced a proportional electoral system with open party lists for elections in ATCs with more than 10,000

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<sup>91</sup> See “Decentralisation and Local Self-Government Reform: results of the fifth wave of a sociological survey among Ukrainian population”, Sociological Survey conducted by the Center for Social Indicators in August-September 2020 at the request of the Council of Europe, at <http://www.slg-coe.org.ua/category/library/?lang=en>.

<sup>92</sup> “National minorities are actively involved in both cultural and political processes. Regarding the Roma, this is a different story.” (Leader of an umbrella organisation of national minorities); “The activity of the Roma national minority in local self-government is low, special monitoring was carried out, which revealed a very low level of such activity” (Leader of a national minority NGO).

<sup>93</sup> “The participation of [minority members] in electoral processes was generally very low, not to mention the representation (...) among candidates or, even more so, among the elected officials. Now, there is a very positive situation (...). There are already more activists and public figures who will participate in the elections. The situation in this area has improved (Leader of a national minority NGO); “There are more opportunities to participate in the political life of the country. Many representatives of national minorities run for offices. The situation is more advantageous in places where national minorities live geographically concentrated, for example, in the south of the Odesa oblast.” (Leader of an umbrella organisation of national minorities).



voters and raised the electoral threshold to 5% (see section 1.2 of the report).<sup>94</sup> All leaders of national minority NGOs and umbrella organisations of national minorities are aware that consultative bodies function under central or local government authorities. Most respondents noted a low level of activity and effectiveness of these bodies.<sup>95</sup>

Without up-to-date and reliable statistics, it is hardly possible to assess the level of **representation of national minorities in the governing bodies of ATCs**. The diversity of opinions expressed by respondents in Chernivtsi, Zakarpattya and Odesa oblasts illustrates the current lack of information. While many respondents either were not aware of changes in the numbers of mayors and councillors belonging to national minorities or assumed that the reform had no impact on minority representation, individual respondents pointed out to several cases in which the representation of national minorities decreased significantly. To give an example, a public official from an ATC of Chernivtsi oblast pointed out that following the ATC's establishment, Roma and Polish minorities are not represented anymore in the city council. Moreover, out of 34 councillors only two belong to the Romanian minority, *i.e.* less than proportional to the share of Romanian population in ATC (Romanians constitute around 14% of the local population, so proportional representation would be secured if 4 or 5 councillors belong to the Romanian minority). The situation of the Roma minority is of particular concern. Several respondents were of the opinion that the representation of Roma will be negatively affected. The Velyky Berezny ATC in Zakarpattya oblast comprises a large Roma population and has been cited as an illustrative example. This Roma community used to have one representative in the village council elected under the old electoral system. Most probably there will be no Roma representative in the council of Velyky Berezny ATC following the October 2020 local elections. This brings us again to the new electoral rules in ATCs with more than 10,000 voters. A large majority of the respondents in all three oblasts consider that the new "party-list" system will have a negative impact on political representation of all communities, including national minorities. The main general concerns regard the limitation of voter choice and the shift of councillors' accountability from voters to political parties.<sup>96</sup> It is

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<sup>94</sup> "This [new electoral rule] introduces a negative attitude towards national minorities; it can distort representation" (Leader of a national minority NGO). According to this representative of a geographically concentrated minority, the new electoral regulations will have a negative impact on the representation of national minorities in LSG bodies at district and oblast level but not at ATC level. When referring to the new rules regarding elections in communities with more than 10,000 voters, the leader of an umbrella organisation of national minorities noted that the majoritarian electoral system is more suitable and closer to communities.

<sup>95</sup> "These bodies give nothing. The format of such bodies needs to be drastically changed. They are not efficient." (Leader of a national minority NGO); "These bodies are not efficient. Since the 2017-2018, the activities of all these advisory bodies at all levels of government have practically had no significance for resolving issues. In fact, we need to think that this format would work efficiently at the local level." (Leader of a national minority NGO) "Their efficiency is very low since they have no real mechanisms of influence on ethnic minorities. Neither financial nor organisational impact, as well as no authority." (Leader of an umbrella organisation of national minorities). While generally sharing the scepticism of his colleagues, an NGO leader representing a large national minority expressed a positive opinion regarding the activity of the Council of Representatives of Civic Associations of Indigenous Peoples and National Minorities which functions within the Ministry of Education and Science.

<sup>96</sup> "Party lists are the worst thing they could introduce because they mean the imperative mandate for the local council members. The local leader will promote a party in the elections, but he/she will not be independent later

worth noting that in Zakarpattya oblast, most respondents argued that the new electoral rules are likely to hinder political representation of all national minorities except for Hungarian minority. The assessment is based on the fact that Hungarian minority has a well-developed and active network of institutions which includes cultural associations and political parties with local branches across the oblast. It remains to be seen whether territorially concentrated and politically mobilized national minorities will be able to preserve their political representation.

Formal representation of national minorities in elected bodies does not necessarily guarantee their effective participation. However, generally the respondents did not address the issue of translating the mere representation into the **power to really influence the decision-making**. An exception regards a concrete example from Odesa oblast that is worth mentioning. The Velyka Mykhailivka ATC is composed of seven villages and has 12,500 residents. The Rules of Procedures of its council stipulates a special voting mechanism that aim to protect the interests of ACT's villages in the council. According to Article 19 of the Rules of Procedures, decisions of the council on budget and programs for social, economic, and cultural development shall be deemed adopted if supported by the *majority of the councillors representing each sub-community that joined the ATC*. One may describe this special mechanism as a right of "local veto" regarding important decisions that may affect the interests of ACT's villages. If the majority of councillors representing a village does not approve a certain decision, the respective measure cannot be adopted even if the majority of the council votes in favour. These special voting rules have been introduced in response to concerns voiced by the residents of remote villages regarding their inability to influence decision-making in the ATC council.

Besides participation in elections, several respondents in Chernivtsi, Zakarpattya and Odesa oblasts mentioned the establishment of **consultative bodies and other participatory mechanisms** (e.g. public hearings, citizen surveys) at regional and local levels as additional measures which provide national minorities with a voice to strengthen their involvement in the decision-making process. Compared with the situation before the start of the decentralisation reform there seems to be an increasing level of interest in engaging in consultations in a timely and strategic manner. In some cases, this goodwill has translated into commitment from regional or local authorities. In Zakarpattya oblast, several respondents mentioned the Advisory Council of Executive Bodies and Local Self-Governments recently established at the initiative of the oblast state administration. It is claimed to be the first such dialogue platform in Ukraine. It is using coordination and consultation as a means of finding joint solutions for various intersectoral issues that arise within and among communities. Another encouraging development is the initiative of community councillors in Baranyntsi/Baranya ATC to hold public hearings. Respondents reported that it was a successful first experience. This could become an example for other ATCs that are willing to establish participatory mechanisms at community level. The Chernivtsi Regional State Administration has a Regional Council on Ethno-National Policy, which includes scholars, specialists in interethnic relations, and leaders of national and

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because he/she depends on the party. At the same time, the party is not accountable to the voters, but it will control the councillors" (Village mayor, Odesa oblast).

cultural societies in the region. Odesa oblast state administration has established a Council of Representatives of National Cultural Societies<sup>97</sup> and similar bodies function in five districts of the oblast. According to respondents, these councils will be reorganised due to communities' amalgamation but several ATCs are interested in establishing such channels of communication and consultation between national minorities and local authorities. Currently there are not many examples of participation mechanisms in Odesa oblast. According to respondents, only two ATCs (*i.e.* Biliajvka and Balta) and the cities of oblast status have participatory budgets in place. Local authorities in Krasnosilsk ATC use surveys on social media to engage with the community and receive feedback on issues of local interest.

Little or no information is available about sustained initiatives aiming at reinforcing **participation of women, youth and other vulnerable groups from national minorities** in the decision-making at local level.<sup>98</sup> The leader of a national minority NGO emphasised that it is necessary to conduct more educational projects for young people, as well as for the ATC's representatives about the nature and functioning of ATCs, their prospects and advantages. He pointed out that "[t]he paternalistic position that 'the state will do everything' is very harmful and is a consequence of the almost 80-year period of the totalitarian regime dictatorship. It cannot be changed in one day to the position 'everything depends on me, I myself have to do something in my house, my area, my ATC'". As a good example, he presented the implementation in August 2020 of a project on the digitalisation of the cultural heritage of German settlements in Volyn oblast with the support of the Ukrainian Cultural Foundation. In some villages, this created additional opportunities for the development of tourism, creative industries, and festivals.

Respondents in Chernivtsi, Zakarpattya and Odesa oblasts referred to activities involving women, youth and elderly people that focus either on the preservation and presentation of national minorities' traditions and customs (*e.g.* folk costumes, songs and dances, traditional handicrafts) or on community development through adult education.<sup>99</sup> According to respondents, these types of activities offer an opportunity to develop informal social ties across communities, which can be then actively engaged in other civic initiatives. This brings us to the issue of civil participation and the role of non-governmental organisations (NGOs).

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<sup>97</sup> As of January 2020, the Council consists of more than 30 national and cultural organisations.

<sup>98</sup> According to the Government officials, relevant initiatives have been already implemented in some of other oblasts and other (not interviewed) ATC of Chernivtsi oblast, within a frame of "Promoting Gender Equality and Empowering Women in Decentralisation Reform" (project supported by the Canadian government), however we have not come across similar initiatives in the interviewed localities.

<sup>99</sup> For example, In Odesa oblast, since 2017, the Krasnosilsk ATC organises "European Days" a public event in which local minority groups present their traditional culture. The ATC has adopted its own program for the development of national minorities for 2019-2021. According to representatives of Vylkove ATC, the community has won funding to implement a project that aims to provide better services to elderly people in local community centres and libraries where they also receive courses in computer literacy. In Chernivtsi oblast, a project launched in Mahala and Ostrytsia ATCs focus on engaging women from different national minorities in informal education activities. In Zakarpattya oblast, the Youth Council established at community level in Tyachiv ATC formed a choir group whose repertoire includes traditional folk songs of community's national minorities.

**Civil participation in decision making** includes provision of information, dialogue and active involvement of individuals and groups and organisations. Civil society is generally perceived as key in terms of giving a voice to national minorities and bringing their concern into the public arena. However, most respondents in Odesa oblast pointed out that several local NGOs contributed to the excessive polarisation of public debates about the amalgamation process. According to the respondents, such NGOs – often established and managed by politicians opposing the reform – claimed to represent the interests of national minorities<sup>100</sup> and deliberately spread misinformation and half-truths. As trust broke down, the very role of civil engagement and participation came to be questioned. Currently there is a clear need to enhance the capacities of local civil society and support NGOs involved in non-partisan civic projects and cross-community activities. Respondents in Zakarpattya and Chernivtsi oblast acknowledged the positive role played by non-governmental organisations and civic activists regarding community development. Joint initiatives such as the regional association “Reforms for a Decent Life” have been particularly successful. This association was established on the joint initiative of the Zakarpattya regional branches of the Association of Cities of Ukraine and the All-Ukrainian Association of Village and Town Councils, the Regional Association for Development and Reforms in Cities, Towns and Villages “Zakarpattya – 20th Century” and the coalition of Zakarpattya NGOs “For Reforms and European Integration of Ukraine”.

Lack of technical know-how and project management is a serious limitation for community development in rural ATCs. In Chernivtsi oblast, respondents pointed out that NGOs’ involvement was twice beneficial for several rural ATCs: on the one hand, external experts provided technical assistance for community development projects and, on the other hand, local activists have been inspired by NGO workers, learned from them and initiated activities to boost civic engagement at local level.<sup>101</sup> An illustrative example is a project coordinated by the Association of the Local Self-Governments ‘Bukovyna Community Development Agency’ which is implemented in eight ATCs. The project is financed by the EU under Mayors for Economic Growth (M4EG) initiative.<sup>102</sup> Cross-border co-operation projects with Moldovan and Romanian partners are underway. Some projects are being implemented under the Eastern Partnership programme. As highlighted by respondents, the multilingualism of these communities, their ethno-cultural diversity and their location can be real advantages in terms of accessing resources and further development.

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<sup>100</sup> "Our national and cultural associations are in fact branches of political parties" (local representative, Odesa oblast).

<sup>101</sup> People’s participation in local decision-making in the context of urban-rural relations is one of the main areas covered by the project LoGov - Local Government and the Changing Urban-Rural Interplay. For details, see <http://www.logov-rise.eu/>.

<sup>102</sup> Mayors for Economic Growth (M4EG) is a new initiative of the European Union, which was set in operation in January 2017 within the Eastern Partnership framework. For details, see <https://www.m4eg.eu/en/>.

National minorities could be considered indeed a location factor (*Standortfaktor*)<sup>103</sup> in terms of regional development. Polyethnic ATCs located in border areas may be particularly attractive for investors.<sup>104</sup> Respondents from Odesa oblast reported that Kiliya ATC aims to turn the potential offered by its ethno-cultural diversity into a tourism brand. A representative of the ATC is undergoing a training course in the Cultural Leadership Academy 2.0 to learn about cultural tourism brand-building. It is encouraging that the Strategy for Odesa Oblast Development until 2027 specifies the implementation of an ambitious project aiming to create a network of regional centres for the development of cultural and creative industries in seven communities of Odesa oblast: Bolhrad, Savran, Shyryaivka, Kiliya, Vylkove, Reni, Ananyiv.

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<sup>103</sup> See, for instance, the report “Competence Analysis: National Minorities as a *Standortfaktor* in the German–Danish Border Region: Working with Each Other, for Each Other” (2007), Eurac Research Report commissioned by the Schleswig-Holstein Landtag. The study identified hard as well as soft location factors that minorities represent in terms of enriching the region in the views of investors. These factors were based on identification of social and human capital as well as cross-cultural knowledge of the minorities.

<sup>104</sup> “In some regions, we already see ATC's interest in supporting [development concepts and plans], in particular for the development of tourism with an ethnic flavour.” (Leader of a national minority NGO). In his opinion, the ATC format provides the best opportunities for the implementation of such concepts and plans.

# 5. Conclusions and recommendations

## 5.1 Conclusions

The difficulty with assessing decentralisation reform by various stakeholders is related to the fact that several laws and reforms have been introduced at the same time (*e.g.* in areas of education, healthcare, language policy) and several respondents have difficulties with distinguishing among them. However, the outcomes of the semi-structured interviews conducted within the project illustrate well the different needs and expectations of national minorities in Ukraine. While the reforms were separate and have different goals, they do have an intertwined effect on the life of the national minorities and cannot be implemented or assessed completely separately.

It should be stressed that the study suffered from poor data availability on national minorities. The relevance of 2001 census data has reduced significantly not only due to natural demographic processes during the last two decades, but also considering the consequences of the conflict in Eastern Ukraine, which provided migration of around 1,5-2 mln internally displaced persons to other regions of Ukraine.

In general, the idea of decentralisation reform is positively assessed by citizens and local elites. This conclusion is supported both by nation-wide surveys of citizens and by interviews conducted in the framework of this project with various representatives of local elites. Overwhelming majority of interviewees agreed that decentralisation reform has been moving the country in the right direction and it has provided more opportunities for local communities. This observation concerns also national minorities, which are concentrated in the particular territories and which – thanks to decentralisation of functions and financial resources – may have a bigger impact (through their representatives) on provision of services which are of a key importance for everyday life of local communities. Old village or town councils were closer to citizens, but powerless. New ATCs might be more distant, although still closer than district administration (which also lacked local electoral legitimacy), but they are responsible for many vital functions.

It does not mean that the reform process has not met any criticism. The critical comments concerned the initial stage (many respondents complained about the lack of sufficient information and a stable legislative framework) and the current stage of the reform implemented in 2020, when decisions were made on “administrative” amalgamation of those communities, which did not reach an agreement with their neighbours during the voluntary (2015-2019) stage. The share of such “administrative” amalgamations is the highest in Zakarpattia oblast, where regional administration blocked rather than supported the reform in earlier stages. In addition, in some interviews the fear of unemployment among former local

public administration employees was expressed as a potential negative side effect of the reform.

District administration was often identified among the main opponents of the reform, which may be easily explained by the fact that it has been a district tier which was losing large part of their functions, financial resources and the power of control over the lowest tier of local governments.

According to interviews conducted in local communities, the ethnic factor was reported as relatively unimportant in the decisions on amalgamation (an opposite opinion was expressed by some representatives of national minorities' organisations operating on a country level). Only in the south part of Odessa oblast and to a lesser extent in Zakarpattya it has been mentioned as potential conflict drivers. In the latter case the fear of separatism and ethnic conflict was seen by some actors (especially from the regional administration) as an argument against the reform.

Representatives of polyethnic ATCs in all the target regions were more likely to share a positive attitude toward the reform outcomes (as generating additional incentives and opportunities for meeting the national minorities' needs), than representatives of regional or national minorities' NGOs.

Most national minority organisations (regional and national level) were not actively engaged in the reform consultations and did not provide their policy advice, as the local opinion leaders (first of all - national minority village/settlement heads) took the lead at the grass-root level.

The amalgamation has not affected the opportunities for receiving administrative services in minority languages, since the multilingual information practices (public signs, announcements, communication etc.) *de facto* were introduced earlier, but the situation before the amalgamation process was already not in line with Ukraine's obligations under the ECRML. But there seems to be a general lack of awareness at ATC level and among local communities regarding the potential impact of legal requirements regarding the mandatory use of the state language in the public sphere, in accordance with the 2019 State Language Law.

Major concerns were voiced regarding school education in ATCs, resulting mainly from the national school reform. During the school network reorganisation in amalgamated communities, minority language education at small schools might suffer after consolidation into a hub school.

Another problem, which is not linked to the amalgamation reform directly, but was reported is the price of minority languages textbooks (printed in Ukraine), which are much more expensive than the same textbook in Ukrainian. However, according to the Ministry of Education, currently their procurement is covered by the state budget according to the regional needs.

The divergent opinions expressed by representatives of various national minorities regarding education and use of minority languages in the public sphere highlight the different needs and expectations of Ukraine's national minorities. There is no one-size-fits all solution for territorial

and cultural governance. The decentralisation reform, with all its benefits, also brings challenges for national minorities. Addressing challenges linked to several on-going reforms in Ukraine requires commitment, resources and flexible approaches based on an enhanced cooperation and coordination between state authorities, LSGs and national minorities.

Several respondents indicated that national minorities representation in local councils, as well as all local residents, is under threat because of the new election rules for a 10,000+ voters' community council to be elected based on the parties' candidates list only. Concerns have been raised about the potential loss of choice, additional influences that might be exerted on the community life by political parties, and the local councillors' dependence on the political parties' representatives, rather than on voters. Minorities representation will further suffer from the recent amendment of the Electoral Code, which provides that local residents will not elect their village starosta (as this appointment will be made by the local council). These issues are extensively elaborated in the recommendations section of the report.

There seems to be an increasing level of interest among all categories of stakeholders in consultative mechanisms and instruments of civic participation. However, positive examples mentioned in the three oblasts are individual initiatives rather than the outcome of a coordinated and comprehensive strategy to enhance the active engagement of citizens in decision-making through participatory democracy tools.

## 5.2 Recommendations

### ➔ **Monitor the effectiveness and efficiency of the decentralisation reform and promote best practices.**

Decentralisation reform may be considered a success but requires further monitoring and possible corrections to strengthen positive and reduce possible negative effects. In several European countries territorial reforms have been studied very carefully, so methodologies of such studies are known in academic community.<sup>105</sup> Similar studies should be stimulated in Ukraine, perhaps with support of international donor programmes, which may bring input from experienced scholars from other countries having an experience in this respect. It would be especially interesting to monitor the differences between results and performance in ATCs which were created voluntarily in the first phases of the reform with those which result from the top-down administrative decisions.

Meanwhile it is crucial to promote best practices of the national minorities' engagement and empowerment in the context of the reform in Ukraine. As the research findings of the selected regions proved there are quite several success stories in place.

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<sup>105</sup> See, for example, *Does Size Matter? Toolkit of Territorial Amalgamation Reforms in Europe*, Strasbourg: Council of Europe, 2017; A. Gendźwiłł, A. Kurniewicz, P. Siwaniewicz "The impact of municipal territorial reforms on economic performance of local governments. A systematic review of quasi-experimental studies", *Space and Polity*, 2020, DOI: 10.1080/13562576.2020.1747420.



**→ Ensure clear division of powers and responsibilities between the state and local authorities as well as between different tiers of local government.**

Another urgent recommendation is to clarify the relationship between district level and ATCs which have taken over most of the functions provided by districts previously.<sup>106</sup> On a more general level, the decision is necessary whether Ukraine needs a two- or three-tier sub-national government system, and in the latter case what would be the proper functions of the districts.

Similarly, the extent to which individual services should be regulated on a national level and to what extent they should be a subject of discretionary local policy making requires a further discussion. In general, several sectors seem to be overregulated, and leaving more discretion to new ATC's authorities would allow better tailoring of policies to local conditions and better reflection of local communities' specific preferences (including taking into account the voice of national minorities which are concentrated in some of ATCs).

**→ Consider revision of legislation relating to local elections to ensure representation of all communities in local elected assemblies.**

The newly adopted electoral rules which introduced a proportional representation electoral system with open electoral lists of political parties for elections in ATCs with more than 10,000 voters may have a negative impact on political representation of all communities, including national minorities. Generally, the impact of a chosen electoral system on national minorities depends on socio-political and demographic circumstances of the country. In a majority vote system, if the voters of a party representing the interests of a national minority are geographically concentrated, it is most likely that the respective party will be able to win seats in one or more electoral districts. The Ukrainian authorities should assess the impact of the current electoral system on minority representation, take into consideration possibly better alternative solutions and amend the electoral legislation accordingly. There are several potential problems and related recommendations:

- i. Political parties in Ukraine are not strong enough to be present and active in every community affected by the change. In the long-term the goal of the reform may be to strengthen local roots of political parties, but in the short- and mid-term perspective it creates problems for appropriate representation. It is recommended to consider lifting the threshold for proportional elections up to the level of 20,000 or even 40,000 or 50,000. That would allow to organise proportional elections in the communities where the presence of active political parties is more solid. In small communities, majoritarian system with electoral constituencies (wards) in different parts of the ATC will help to secure representation of national minorities, which are concentrated in some parts of towns/ villages of the ATC.

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<sup>106</sup> Minregion recently supported drafting new versions of the Law "On Local Self-Governance" and "On Local State Administrations", which are to solve the problem. These draft Laws are under consideration of the relevant Committee of the Verkhovna Rada.

- ii. Most national minorities do not have the capacity to meet demanding requirements for registration of political parties, or simply do not want to be involved in party politics. To facilitate their participation in the electoral process it is recommended that not only registered political parties, but also various non-governmental organisations (including those of national minorities) and even ad-hoc community groups might register their lists for the elections.
- iii. While a proportional representation electoral system is often considered to promote the representation of national minorities, this is not necessarily true. Countries with this type of voting system have electoral thresholds to prevent an excessive fragmentation of their elected bodies. The principle of effective equality allows for exemptions from thresholds for parties/organisations representing the interests of national minorities. The Ukrainian authorities should consider lowering the current 5% thresholds or introducing an exemption for parties/organisations of national minorities. The latter solution is known *e.g.* from Polish Parliamentary elections, where the 5% threshold does not apply to candidates proposed by national minority organisations. Taking another example – this time an exemption at sub-national level – the Danish minority in Germany is exempted from the 5% electoral threshold in the Land of Schleswig-Holstein.<sup>107</sup> This recommendation is inter-connected with the previous one (opening possibility of submitting lists for NGO's not being political parties).
- iv. Small national minorities may not be able to obtain the number of votes required for a mandate or to influence the decision-making regarding matters that concern them. The special mechanism of reserved seats guarantees the minimum representation of national minorities in elected bodies and it may be worth debating. Such solution has been adopted, for example, by Croatia, Romania and Slovenia.<sup>108</sup> A suspensive veto right mechanism is a last-resort mechanism, since it may potentially block decision-making, though reduce efficiency of local governance. But if it has a limited scope (*e.g.* certain policy areas of minority interest) and includes a mediation process (that is activated once a veto is invoked) could be an effective tool to ensure that national minorities have a voice on issues that affect them. It is recommended that Ukrainian authorities assess the current situation of small national minorities and consider the relevance of such special mechanisms aiming to ensure their effective political participation.

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<sup>107</sup> See J. Marko and S. Constantin, "Against marginalisation: the right to effective participation." In *Human and Minority Rights Protection by Multiple Diversity Governance. History, Law, Ideology and Politics in European Perspective*, edited by J. Marko and S. Constantin, 340-395. London and New York: Routledge, 2019.

<sup>108</sup> *Ibid.*; Regarding the guaranteed representation of national minorities at sub-national level, it is worth mentioning the solution stipulated by Croatia's Constitutional Law on the Rights of National Minorities of 2002 which regulates the situation when not even one member of a national minority (which represents more than 5% and less than 15% of the population of a municipality) has been elected into the legislative body of the local self-government. In this case the number of members of the legislative body of this local self-government will be increased by one member, and the national minority candidate not elected as the first one on the list based on the proportional success of each list at elections will be considered as elected.

➔ **Improve legal framework on sub-municipal units protecting identity and representing interests of small communities.**

It is suggested that central authorities would prepare the legal framework supporting functioning of sub-municipal governments protecting identity and representing interests of amalgamated smaller communities (towns and villages). Amalgamation reform has been introduced to strengthen local government and increase capacity to deliver wide scope of functions efficiently. But citizens' identification with smaller territorial communities, in particular if they are inhabited by national minorities, is also a value worthy of protection. In several countries which have undergone amalgamation reforms, smaller village governments did not disappear completely.<sup>109</sup> They still have symbolic political representation ("village leader" – the term may be different in different countries). It is recommended to reverse the recent amendment of the Electoral Code which provides that the local council (instead of local residents) would appoint a village *starosta* in Ukraine. In some countries sub-municipal units have also a right to decide upon some small, local investments through the mechanism of "village development funds". The law enabling such solutions could be a way to strengthen national minorities concentrated on small territories and would strengthen their support for the reform.

However, the legal framework for sub-municipal units should provide a very general, enabling frame only. The detailed implementation would depend on individual ATCs' governments, therefore this recommendation is addressed to both central and local authorities.

➔ **Enhance financial and legal instruments to ensure availability and quality of education at schools teaching in minority languages.**

It is recommended to consider mechanisms to provide additional funding for schools teaching in minority languages. The demand for such additional support originates from the fact that those schools have higher costs, due to the larger number of subjects which are taught (one more language in addition to subjects present in the school which teaches in Ukrainian only). There are models from other countries which may be studied in this respect, e.g. in Poland there is a special weight for national minorities schools in the allocation formula of school budget grant.

Use of minority languages in the education system. In the past few years Ukraine undertook two major reforms (*i.e.* decentralisation and education) which touch upon several areas of high concern to national minorities. The ways in which these reforms interact will greatly influence the situation of minority language education in Ukrainian schools. Changes regarding school's teaching in or of minority languages should be implemented only after effective consultations with representatives of national minorities concerned. The Ukrainian government should

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<sup>109</sup> See e.g. N. Hlepas, N. Kersting, S. Kuhlmann, P. Swianiewicz, F. Teles *Sub-Municipal Governance in Europe: Decentralisation Beyond the Municipal Tier*, London: Palgrave-Macmillan, 2018, DOI: 10.1007/978-3-319-64725-8; G. Peteri (ed.) *Mind your own business: community governance in rural municipalities*, Budapest: LGI-Open Society Institute, 2006.

monitor the situation of minority schools in the newly established ATCs especially regarding potential closure or downgrading of such institutions. The 2017 recommendation of the Advisory Committee on the FCNM is to be recalled that Ukrainian authorities should “introduce flexibility in the implementation of the territorial administrative reform and ensure that the availability and quality of education at minority language schools do not suffer as a result of the establishment of large hub schools and a disproportionate focus on financial efficiency.”<sup>110</sup> Furthermore, the Committee of Experts of the ECRML concluded that education wholly or substantially in Bulgarian, Crimean Tatar, German, Greek, Hungarian, Polish, Romanian and Russian should be made available.<sup>111</sup>

➔ **Strengthen legal framework on the protection of national minorities.**

Use of minority languages in the public sphere. One of the most important and positive elements of decentralisation reform is bringing decisions closer to citizens. However, the implementation of the decentralisation reform in conjunction with the 2019 State Language Law creates a “linguistic barrier” between members of national minorities and the decision-making processes affecting their lives. Using minority languages in the local public sphere is an important element of bringing together public authorities and residents. The Ukrainian government should consider amending the existing restrictive regulations regarding the use of minority languages in relations with public authorities and should adopt as soon as possible a new law on the protection of national minorities, in accordance with Ukraine’s Constitution and its international obligations under the FCNM and the ECRML.

➔ **Expand legal framework on participatory democracy, promote use of the existing relevant tools and enhance targeted capacity building and awareness raising interventions.**

Besides participation in elections, civic participation is a key democratic instrument that provides citizens with alternative ways to make their voice heard in public affairs and decision-making. Civic participation can help in the implementation of the reform by bringing citizens, civil society and policymakers together, creating a participation culture of territorial communities and building a “local identity”, a sense of co-ownership and involvement in the community. The adoption of special regulations on civic participation creates the general framework of participatory democracy but the effective implementation of instruments of civic participation depends mostly on the will of public authorities and the sincere engagement and commitment of all actors. Key principles that should guide this process are transparency, inclusiveness and equal participation of women, youth and other vulnerable groups. The Ukrainian authorities should consider adopting specific regulations on civic participation in

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<sup>110</sup> Fourth Opinion on Ukraine adopted by the Advisory Committee on the Framework Convention for the Protection of National Minorities on 10 March 2017, ACFC/OP/IV(2017)002, Strasbourg, para. 162.

<sup>111</sup> Second evaluation report of the Committee of Experts on the application of the Charter in Ukraine (ECRML(2014)3), para. 110; Third evaluation report of the Committee of Experts on the application of the Charter in Ukraine (CM(2017)97), para. 18.

accordance with Council of Europe's guidelines<sup>112</sup> and supporting the establishment of participatory democracy tools focusing on topics close to the citizens interests (e.g. budget, schools, healthcare) at regional and sub-regional levels.<sup>113</sup>

An important element and pre-condition for civic participation is an access to information and communication between central government, LSGs, national minority organisations and civil society in general, communities and individuals. It is a two-way process that fosters a political culture of participation, cooperation and mutual trust and increases the level of social and civic competences across society. The Ukrainian government should improve and enhance its policy of access to information and communication and support LSGs in developing and expanding civic education programs tailored to local needs as well as awareness-raising and capacity-building programs targeted to specific groups such as national minorities, women and youth.

There are several recommendations which may **strengthen community involvement in local governance, in particular strengthening the voice of national minorities.**

One of the mechanisms may be the functioning of consultative bodies. Their operation depends on several factors, such as membership and working procedures, as well as the financial and human resources allocated to it. Transparent and inclusive appointment procedures are essential for the credibility of consultative bodies. A balanced composition of such bodies between representatives of national minorities and public officials requires equal representation. The Ukrainian authorities should review the functioning of existing consultative bodies at central level and should adopt a general frame regarding the establishment of consultative bodies dealing with issues of interest for national minorities at the ATC level. However, detailed implementation will also depend on local policies, so this recommendation concerns both tiers of government. Examples of such local consultative bodies can be found in Czech Republic and Serbia.<sup>114</sup>

Local governments may consider adoption of Statutes and (or) local council regulations which may provide procedures and tools supporting monitoring and respecting rights of minorities.

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<sup>112</sup> "Guidelines for civil participation in political decision making" adopted by the Committee of Ministers of the Council of Europe on 27 September 2017 at the 1295th meeting of the Ministers' Deputies, CM(2017)83-final at: [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=09000016807509dd](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016807509dd).

<sup>113</sup> New draft of the Law on Local Self Governance provides these functions as a competence of LSG.

<sup>114</sup> For more details, see T. Malloy, L. Djordjevic and N. Mekahal, "Strengthening the protection of national minorities in Ukraine: executive structures and specialised dialogue mechanisms in an international perspective", Council of Europe, November 2018, at <https://rm.coe.int/coe-report-national-minorities-protection-ukraine-nov2018/1680956a8b>.