

Weak language norm(s) versus domestic interests: Why Ukraine behaves the way it does

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Abstract. Many analyses of the role of international norms in world politics study those particular norms that can be classified as relatively robust. Furthermore, such analyses critique alternative theories which foreground the role of domestic interests in affecting the behaviour of state elites, by calling into question the presumed objectivity of interests. The present article takes a different tack to the largely similar challenge. Specifically, it shows – on the example of Russian speakers in Ukraine – that even weak and contested international norms, like the norm of language rights for national minorities, can have independent effects on the behaviour and policy of state elites. The latter holds, in demonstrable terms, if state elites act in ways that militate against their most salient apparent interests. In the Ukraine case, this article argues, such ‘interests’ are the protection of the Ukrainian language as the country’s sole official language. So the cause of the (variable) behaviour of elites in Ukraine lay in a weak and contested norm, namely the norm of language rights for national minorities.

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Introduction

Following the end of the Cold War, there has been an upsurge of interest among International Relations (IR) specialists in the possible effects of international norms on the behaviour and policy of states.¹ Nonetheless, most such scholarly attention has been devoted to norms that can be considered relatively robust.² Instead the present

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¹ On workings of norms in general, see Jeffrey W. Legro, ‘Which norms matter? Revisiting the ‘failure’ of internationalism’, *International Organization*, 51:1 (1997), pp. 31–63; Martha Finnemore and Kathryn Sikkink, ‘International norm dynamics and political change’, *International Organization*, 52:4 (1998), pp. 887–917; Andrew P. Cortell and James W. Davis, Jr, ‘Understanding the domestic impact of international norms: a research agenda’, *International Studies Review*, 2:1 (2000), pp. 65–87.

² For a similar reading of the state of the norm literature, see Paul Kowert and Jeffrey Legro, ‘Norms, identity, and their limits: a theoretical reprise’, in Peter J. Katzenstein (ed.), *The Culture of National Security: Norms and Identity in World Politics* (New York: Columbia University Press, 1996), pp. 451–97, 485; Jeffrey T. Checkel, ‘Norms, institutions, and national identity in contemporary Europe’, *International Studies Quarterly*, 43:1 (1999), pp. 84–114, 86; Richard Price, ‘Transnational civil society and advocacy in world politics [review]’, *World Politics*, 55:4 (2003), pp. 579–606, 585. For the empirical examples of

article sets itself the task to theorise the possible effects of weak and contested international norms on the behaviour, and policy, of state elites—like the norm of language rights for national minorities. In particular, it does so on the example of politics surrounding the implementation of the above norm for Russian speakers in post-Soviet Ukraine.³

The influence of the norm of language rights for national minorities in Ukraine has been twofold. On one hand, the above norm ‘led’ the powers that be in Ukraine to *tolerate* formal and minimal changes in policy toward national minorities (and, particularly, Russian speakers). On the other hand, the norm of language rights for national minorities had, in Ukraine, an unintended effect of empowering the Russophone elite at large – which then put its Ukrainophone counterpart on the defensive regarding the minority rights policy.⁴ Thus the latter went the greatest lengths in attempting to delay the above norm’s enactment indefinitely. As will be evident in the *empirical* analysis, such tactics proved to be counterproductive for the Ukrainophone elites.

These empirical findings seem to be puzzling from the perspective of theories which elevate the importance of domestic interests, in accounting for the *variable* behaviour of state elites.⁵ The main reason for this is that even formal changes in Ukraine’s language policy toward national minorities posed an unequivocal political threat to the declared interests of the Ukrainophone elites. Such declared interests in the Ukraine case are the protection of the Ukrainian language as the country’s sole official language.⁶ In turn, the above ‘threat’ materialised, over time, in enhanced claims by the Russophone elites to *de jure* bilingualism.

Correspondingly, the empirical analysis, presented here, poses a difficult challenge for theories (particularly, in IR), which posit that international norms are mere epiphenomena of state interests.⁷ In particular, there are *two* kinds of claims. One, some

relatively robust international norms, see Audie Klotz, *Norms in International Relations: The Struggle against Apartheid* (Ithaca: Cornell University Press, 1995); Richard Price and Nina Tannenwald, ‘Norms and deterrence: the nuclear and chemical weapons taboos’, in Katzenstein (ed.), *The Culture of National Security*, pp. 114–52; Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (Ithaca: Cornell University Press, 1998); Martha Finnemore, *The Purpose of Intervention: Changing Beliefs about the Use of Force* (Ithaca: Cornell University Press, 2003); Judith Kelley, ‘Assessing the complex evolution of norms: the rise of international election monitoring’, *International Organization*, 62:2 (2008), pp. 221–55; and Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (eds), *The Persistent Power of Human Rights: From Commitment to Compliance* (Cambridge: Cambridge University Press, 2013).

³ For works on language political issues, see David D. Laitin, *Identity in Formation: The Russian-speaking Populations in the Near Abroad* (Ithaca: Cornell University Press, 1998); and Zsuzsa Csergo, *Talk of the Nation: Language and Conflict in Romania and Slovakia* (Ithaca: Cornell University Press, 2007).

⁴ It bears notice that Ukraine’s state policy, in the issue-area of the protection of the Ukrainian language, aims to protect it not least in its *written* form.

⁵ For select few works which stress the explanatory role of state interests, see Geoffrey Garrett and Barry R. Weingast, ‘Ideas, interests, and institutions: Constructing the European community’s internal market’, in Judith Goldstein and Robert O. Keohane (eds), *Ideas and Foreign Policy: Beliefs, Institutions, and Political Change* (Ithaca: Cornell University Press, 1993), pp. 173–206; Andrew Moravcsik, ‘The origins of human rights regimes: Democratic delegation in postwar Europe’, *International Organization*, 54:2 (2000), pp. 217–52; Milada Anna Vachudova, *Europe Undivided: Democracy, Leverage, and Integration After Communism* (New York: Oxford University Press, 2005).

⁶ According to Article 10 of the Ukrainian Constitution, the Ukrainian language has the status of the sole official language in Ukraine. Further, according to Article 10, ‘Free Development, Use, and Protection of Russian and Other Languages of National Minorities of Ukraine Shall be Guaranteed in Ukraine’, available at: {<http://www.legislationline.org/documents/action/popup/id/16258/preview>} accessed 3 October 2014.

⁷ Theories that stress the explanatory role of systemic variables (like the Waltzian theory of International Relations) fall outside the scope of this article. See Kenneth N. Waltz, *Theory of International Politics* (Reading: Addison-Wesley, 1979); and John J. Mearsheimer, ‘Back to the future: Instability in Europe after the Cold War’, *International Security*, 15:1 (1990), pp. 5–56.

suggest that state elites abide by international norms when doing so is not at odds with the most salient apparent interests of these elites. Further, others, not unrelatedly, point out that norm compliance by state elites occurs then when noncompliant behaviours turn out to be more costly to state elites than do *compliant behaviours*.⁸ The upshot, as Nina Tannenwald cogently argues, is that norms, in the above tradition of inquiry, ‘produce no independent analytical leverage’.⁹

To state the above point more intelligibly still, it may be useful to consider how Stephen Krasner (who is a realist) views the possible influence of international norms on the behaviour, and policy, of state elites. For him, the possible influence of norms is best understood by an analogy to ‘neutral mutants’.¹⁰ In other words, those changes – in the behaviour and policy of state elites – which norms can bring about, might well be *favourable* to the declared interests of these elites but never *threatening*. The major reason is that state elites, à la Stephen Krasner and other realists, continuously prioritise domestic exigencies over norm-compliant behaviours.

Yet, this article argues that even weak and contested international norms, like the norm of language rights for national minorities, can have independent effects on the behaviour, and policy, of state elites.¹¹ In methodological terms, we can make the strongest case for such a case, if we can show that intersubjective shared understanding about the appropriateness of norm-compliant behaviours leads state elites to abide by even weak and contested norms – when the declared interests of these elites dictate a contrary course of action, namely *defiance*.¹²

Put otherwise, the influence of weak and contested international norms, like the norm of language rights for national minorities, is understood here as the possible *constraint* on the *behaviour* of state elites. To be sure, those norms that are relatively robust can also exert the similar constraining influence on the behaviour of state elites. None the less, it is the case that the potentially distinctive influence of weak and contested international norms, like the norm of language rights for national minorities, can be eclipsed. Thus, the value-added of the empirical analysis, presented here, is to

⁸ For Robert Gilpin, ‘the primary foundation of rights and rules is in the power and interests of the dominant groups or states in a social system’. Robert G. Gilpin, *War and Change in World Politics* (Cambridge: Cambridge University Press, 1981), p. 35. Further, for John Ikenberry and Charles Kupchan, ‘At the international level, the emerging hegemon articulates a set of normative principles in order to facilitate the construction of an order *conducive to its interests*.’ G. John Ikenberry and Charles A. Kupchan, ‘Socialization and hegemonic power’, *International Organization*, 44:3 (1990), pp. 283–315, 284, emphasis added. Similarly, for Arnold Wolfers, ‘Nationalistic ethics place what are called vital national interests ... at the very pinnacle of the hierarchy of values’. Arnold Wolfers, ‘Statesmanship and moral choice’, in Wolfers (ed.), *Discord and Collaboration: Essays on International Politics* (Baltimore: Johns Hopkins Press, 1962), pp. 47–65, 59. Last not least, for Stephen Krasner, for many rulers in world politics ‘[t]he alternative to acceptance [of rules, norms or obligations] was nonexistence’. Stephen D. Krasner, *Sovereignty: Organized Hypocrisy* (Princeton: Princeton University Press, 1999), p. 39. To put it in other terms, compliance by state elites with international norms, like the norm of language rights for national minorities, is seen, in the realist and rationalist tradition of analysis, as the froth on the waves of state interests.

⁹ Nina Tannenwald, ‘The nuclear taboo: the United States and the normative basis of nuclear non-use’, *International Organization*, 53:3 (1999), pp. 433–68, 434.

¹⁰ Stephen D. Krasner, ‘Abiding sovereignty’, *International Political Science Review*, 22:3 (2001), pp. 229–51.

¹¹ For an interesting twist in the debate amongst scholars who share the view of state elites as utility-maximising agents – about the explanatory status of realism in IR – see Jeffrey W. Legro and Andrew Moravcsik, ‘Is anybody still a Realist?’, *International Security*, 24:2 (1999), pp. 5–55.

¹² For a seminal work on the logics of consequences and appropriateness, see James G. March and Johan P. Olsen, *Rediscovering Institutions: The Organizational Basis of Politics* (New York: Free Press, 1989). (In the Ukraine case, a logic of appropriateness states that, if Ukraine wants to integrate in Europe, she is *expected* to abide by European norms.)

foreground the modest – yet theoretically intriguing and potentially politically significant – influence of weak and contested norms, like the norm of language rights for national minorities; on the example of Ukraine’s language policy toward national minorities (and, particularly, Russian speakers).

The article is organised as follows. The first section shows, in exceedingly brief compass, that the norm of language rights for national minorities is a weak and contested international norm. The second assesses this ‘weakness’ or ‘contestedness’ on the example of the enactment of the above norm *in* Ukraine. The following section explains the reasons why the norm of language rights for national minorities is weak and contested in *Ukraine*. The fourth section unpacks the influence of weak and contested international norms, like the norm of language rights for national minorities, in theoretic terms. The penultimate section presents the results of empirical research. The concluding section recapitulates the main points and suggests several implications.

Note on the data

In this article, I draw upon multiple data sources, which include the primary and secondary ones. The primary sources include official documentation and the interviews conducted by the author in Ukraine.¹³ In turn, the secondary sources include the area literature and press reports (the latter are accessed predominantly at Factiva and Lexis-Nexis Academic). (At the same time, the *interview* material aims to buttress rather than inform the empirical analysis throughout.)

Documenting the weakness and contestedness of the ‘language’ norm

There are two international treaties that ‘embody’ the norm of language rights for national minorities. These are the European Charter for Regional or Minority Languages (ECRML) and the Framework Convention for the Protection of National Minorities (FCNM). Both of these treaties originated in the Council of Europe (CE) in Strasbourg, the latter being the pan-European organisation for the protection of human rights; the above treaties came into existence in 1992 and 1995, respectively. (Hence, the norm of language rights for national minorities was institutionalised on the international level relatively recently, namely, in the 1990s.)¹⁴

Importantly, of the ECRML and the FCNM, only the *former* aims to protect language rights of national minorities proper. Furthermore, unlike the FCNM (which has the status of legally binding recommendations), the ECRML calls on the signatory states to enact concrete policy measures aimed at protecting language rights of national minorities. Perhaps not surprisingly, then, fewer states had ratified the ECRML compared to the number of states that did so with respect to the FCNM. (As of this note, the ratio of state ratifications of ECRML and FCNM is 25–39, of 47 member states of the CE.)

¹³ The interviews were recorded by the author. (The interviews were conducted in the Russian language.) The interview sample includes two dozens of interviews (including high-ranking officials, such as the head of state and the parliament speaker). There had been two rounds of interviews, in 2010 and 2011. All interview subjects are anonymous.

¹⁴ Another, legally nonbinding international document on protection of language rights for national minorities is the (1998) Oslo Recommendations regarding the Linguistic Rights of National Minorities, of the Organization for Security and Cooperation in Europe.

Last but not least, it is no exaggeration to say that state elites were rarely (if ever) *spontaneously* inclined to abide by the norm of language rights for national minorities.¹⁵ This holds true, of course, for the period before the formal institutionalisation of the above norm, too.¹⁶

An analysis of the ECRML implementation in Ukraine

Overall, the ECRML aims to promote the comprehensive protection of languages, whereby protection of some of them ought not to be 'to the detriment of the official languages and the need to learn them'.¹⁷ That said, the central idea behind this treaty is to promote protection of languages in a differentiated manner (for example, depending on the number of speakers). In Ukraine, the *ratified* ECRML aims to protect 13 languages. Below, we examine Ukraine's implementation of the ECRML with regard to these languages in general and the Russian language in particular in the issue-areas of education and government.¹⁸

Education

The ratified ECRML, in Ukraine, aims to promote the use of languages at all the levels of education.

On the level of obligatory education (such as in secondary or post-kindergarten education), the first periodic report of Ukraine on the ECRML implementation fails to provide the relevant information in regards to the parents' preferences or wishes about the language of instruction for pupils. Hence, the Monitoring Committee (of the CE) calls on the Ukrainian authorities to clarify, in the following report(s), the demand for education, which is (to be) provided for speakers who are 'protected' under the ratified ECRML.¹⁹ Further, with regard to Russian speakers (specifically), the committee notes that there was an apparent trend, whereby the provision of education in Russian, at all educational levels, is being decreased while the opposite occurs for Ukrainian.²⁰ Thus, the committee concludes that the factual provision of education in Russian does not correspond to Ukraine's commitments under the adopted Charter.²¹

¹⁵ Those international norms that may be considered relatively robust may not elicit norm compliance by state elites, either. At the same time, however, relatively robust norms – in contrast to 'weaker' ones – likely have the so-called tipping point at which compliance by states with particular norms, is more or less automatic and taken for granted. See, for example, Kelley, 'Assessing the complex evolution of norms'.

¹⁶ See, for example, Patrick Thornberry, 'Self-determination, minorities, human rights: a review of international instruments', *The International and Comparative Law Quarterly*, 38:4 (1989), pp. 867–89.

¹⁷ Council of Europe, *European Charter for Regional or Minority Languages*, Document ETS No. 148 (Strasbourg: Council of Europe, 1992), p. 2. It may be relevant to note, at this stage, that, in Ukraine, laws on the ratification of international treaties take precedence over state ones. See Council of Europe, *First Periodic Report of Ukraine on Implementation of the European Charter for Regional or Minority Languages*, Document MIN-LANG/PR (2007) 6 (Strasbourg: Council of Europe, 2007), p. 3.

¹⁸ In part, the issue-areas of education and government had been selected due to the fact that there is a lack of data, in the first periodic report of Ukraine on the ECRML ratification, in the other ones.

¹⁹ Council of Europe, *European Charter for Regional or Minority Languages: Application of the Charter in Ukraine*, Document ECRML (2010) 6 (Strasbourg: Council of Europe, 2010), esp. paras 186, 260, and 282.

²⁰ *Ibid.*, esp. paras 214, 243, and 259.

²¹ *Ibid.*, esp. paras 186, 217, and 252.

Government

The ratified ECRML, in Ukraine, aims to protect the use of languages at the level of both the municipal and the regional authorities.

Nonetheless, the first periodic report of Ukraine on the ECRML implementation notes that official documents are to be issued by the regional authorities ‘in the State language’ (Ukrainian, remember).²² In turn, on the level of the municipal authorities, the use of languages that are covered by the ratified ECRML is to be permitted only in those areas in which speakers compose the majority of the local population. To this, the committee objects that ‘[t]his is a very high threshold compared to other European countries and may prevent the Charter from being applied to those [languages] ... which are still used by a sufficient number of speakers in municipalities or localities ...’.²³ Thus, the committee invites the Ukrainian authorities to change this policy, and to apply the ratified ECRML on the level of the regional authorities, as well.

In summary, the committee calls on the Ukrainian authorities to grant the Russian language ‘a special position’, which would set it apart from the other languages – that are protected under the adopted ECRML.²⁴

Language rights – for Russian speakers – contested

Perhaps a most significant factor that affects in Ukraine the politics of language is that of national identity, or, more exactly, *threatened* national identity. As Andrew Wilson writes: ‘in Ukrainian nationalist discourse [it is commonly asserted] that centuries of Russian and then Soviet domination “gave such a colossal blow to the national organism” that “the very existence of our ethnos” was in doubt’.²⁵

As will be evident in the empirical analysis (of the politics of language rights), the existential perception of threat is shared by many Ukrainophone elites. Such a perception of threat is in large part due to the historic proximity between the two main ethno-linguistic groups in Ukraine: Ukrainophones and Russophones. As Wilson, further, notes, by drawing on the argument made by some prominent Russophone leaders:

‘on the majority of what is now Ukrainian territory’, centuries of history have been marked by ‘the common development of two peoples close in language, culture and historical past – Ukrainians and Russians’. The two languages in fact were like ‘a pair of boots, one the “left” and the other the “right”’, the two cultures sufficiently intertwined to be considered a ‘broad transitional stratum’.²⁶

Now, given this, it should come as little surprise that Ukrainian nationalists aim to lay claim to the *distinctive* national (or cultural) identity.

In this regard, it may be useful to note that, unlike Ukrainian speakers, Russian speakers have a lesser incentive, in politics, to appeal to the electorate by pointing out *ethnic* differences between the two ethno-linguistic groups. The main reason is that, in contrast to how Ukrainian speakers view it for themselves, Russian speakers have no

²² Council of Europe, *First Periodic Report of Ukraine*, p. 49.

²³ Council of Europe, *Application of the Charter in Ukraine*, p. 95.

²⁴ *Ibid.*, para. 79.

²⁵ Andrew Wilson, *Ukrainian Nationalism in the 1990s: A Minority Faith* (Cambridge: Cambridge University Press, 1997), p. 151.

²⁶ Graham Smith, Law Vivien, Wilson Andrew, Bohr Annette, and Allworth Edward, *Nation-Building in the Post-Soviet Borderlands: The Politics of National Identities* (New York: Cambridge University Press, 1998), p. 133, transliteration omitted.

'objective' need to recover from the population at large those putative ethnic Russians who were historically assimilated in the Ukrainophone population. For such a group of people in Ukraine, arguably, does not exist. (According to the most recent census in post-Soviet Ukraine, Russian speakers and ethnic Russians comprise 29.6 and 17.3 per cent of the total population, respectively.)²⁷

Another aspect that deserves mention is that Ukrainophone elites strive for political (and economic) independence from Russia and the former Soviet Union. This desire or fear is particularly apparent in view of the demands by the Russophone elites to grant more autonomy on the regional level *and* maintain neutral or nonaligned status towards NATO. Hence it is no surprise that Ukrainian nationalists consider Russian speakers in Ukraine the fifth column. Or, to put it differently, because, in part, Ukrainian nationalists view Russian speakers in 'this' light, they find them little worthy of trust.

In what follows next we unpack the influence of weak and contested international norms, like the norm of language rights for national minorities, in theoretic terms.

An analysis

This article addresses the puzzle: Why did Ukraine adopt the ECRML? The adoption of this treaty in Ukraine is, at best, counterintuitive, given that it calls on the Ukrainian authorities to regulate the use of the Russian language officially. The Ukrainophone elites, of course, by and large strongly oppose the latter demand, as we will see. Moreover, the ECRML ratification, in Ukraine, is 'unexpected', considering that the Ukrainophone elites anticipated or feared – correctly, as it turned out – that their political opponents would lay claim to it in the arena of politics.

Stated in cost-benefit terms, even formal compliance by Ukraine with the ECRML (that is, ratification of this treaty *tout court*) proved to be *costly* to the Ukrainophone elites, in two senses. One, the ECRML adoption made it more difficult, for the Ukrainophone elites, to keep the sole official (or 'special') status *for* the Ukrainian language.²⁸ Further, as hinted at above, the adoption of this treaty had an unintended effect of strengthening the hand of the Russophone elites in struggles for power.

Hence, the first major impact of the norm of language rights for national minorities, in the Ukraine case, is the *intensification* of the dispute surrounding the claims of Russophone elites to *de jure* bilingualism. For the sake of analytical clarity, I shall call this impact of the norm of language rights for national minorities the secondary adverse effect of the role of international agency. This particular effect – or influence – is secondary, because it had been both unintended and, arguably, unexpected from the perspective of international actors.²⁹ In turn, it is adverse, because its end-result had been *the* intensification of *the* language dispute in Ukraine.

Accordingly, the above impact of the norm of language rights for national minorities *is* puzzling from the perspective of theories (such as, in IR, realist, and rationalist ones) that foreground state interests as a key determinant of the (variable) behaviour of elites.

²⁷ Available at: {<http://2001.ukrcensus.gov.ua/eng/>} accessed 4 October 2014.

²⁸ I do not mean to suggest that the Ukrainophone elite at large is homogeneous with respect to the salient apparent interests of this elite. Nonetheless, it is the case that all Ukrainophone elites view affirmative policy for the Ukrainian language through the prism of the latter's integration or *assimilation* in the Russian-speaking environment in Soviet Ukraine. Compare fn. 32 below.

²⁹ At the same time, I argue that the intensification of *the* language dispute was not unpredictable.

Further, another impact of the norm of language rights for national minorities, in the Ukraine case, which bears notice is the formal and minimal change in Ukraine's language policy toward national minorities. For the sake of analogy, I shall call this impact of the norm of language rights for national minorities the primary 'conductive' effect of the role of international agency. This particular effect is primary, because its nature is in line with the aims and the scope of the legal instruments of international institutions (such as the CE). In turn, it is 'conductive', because it had been intended (by and large) from the perspective of international actors.

Next, we examine the way in which, this article argues, weak and contested international norms, like the norm of language rights for national minorities, can exert in principle autonomous influence on the behaviour, and policy, of elites. Overall, one can conceptualise such influence by analogy with lip service by elites to norm-compliant behaviours. (As this article shows, however, such lip service can carry significant political consequences.)

So, one way in which the above norms can have independent effects on the behaviour and policy of elites is by compelling the latter to come to terms with the fig leaf dilemma. Such a dilemma is likely to be especially troublesome for elites if they cannot simply ignore or brush aside the apparent salient 'need' to engage in norm-compliant behaviours, for reasons that may have to do with these elites' normative or identity-related considerations.³⁰ Hence, elites are bound to experience a cognitive dissonance. (This cognitive dissonance may well be triggered both if the above conditions seem to be present and if *the* need to abide by norms is being continuously put on the domestic political agenda.)³¹

Further, another, not unrelated, way in which weak and contested norms, like the norm of language rights for national minorities, can have independent effects – in behavioural terms – is by compelling elites to engage in *justification*. That is, since (as noted) elites cannot simply disregard the apparent salient 'need' to engage in norm-compliant behaviours, they find it necessary to justify, and to call for, strictly formal and minimal changes in a given policy – such as Ukraine's language policy toward national minorities (and, particularly, Russian speakers). But, because one cannot have the cake and eat it too, elites are bound to experience a disconnect between practices which contradict norm-compliant behaviours and those which give the veneer of 'compliance' – hence the urge to justify the apparently incompatible practices.

The justificationist problem or dilemma can affect both the behaviour and rhetoric of elites.³² In this article, I focus on the *behavioural* dimension. Put otherwise, I examine, in the empirical analysis, which policy changes Ukrainophone elites advocated in order to bring about strictly formal and minimal modifications in

³⁰ So, in the Ukraine case, the rejection of the ECRML ratification as such is commensurate to the belying of what the Ukrainian ethnic (or political) identity stands for.

³¹ So, the Russophone elites in Ukraine were quick to point out that the norm of language rights for national minorities is after all the *European* norm. Thus the Russophone elite at large threw down the gauntlet to its Ukrainophone counterpart. See, for example, Vladimir Alekseev, *Begom ot Evropy? Kto i kak protivodeistvuiet v Ukraine realizatsii Evropeiskoi khartii regional'nykh iazykov ili iazykov men'shinstv* [We're Forsaking Europe, Aren't We? The 'Who' and the 'How' of Attempts, in Ukraine, to Forestall the Implementation of the European Charter for Regional or Minority Languages] (Kharkiv: Fakt, 2008).

³² On the level of speech act, the justificationist argument takes the following form: because the Ukrainian state discriminated against the use of the Ukrainian language during Communism, the new democratic Ukrainian state is *justified* to pursue affirmative policy for the Ukrainian language. See, for example, Council of Europe, *Second Periodic Report of Ukraine on Implementation of the European Charter for Regional or Minority Languages*, Document MIN-LANG/PR (2012) 2 (Strasbourg: Council of Europe, 2012), pp. 6–7.

Ukraine's language policy toward national minorities (and, particularly, Russian speakers) as a subterfuge for full and unequivocal compliance with the norm of language rights for national minorities.

The last question that remains to be tackled here is the discussion of possible counter-arguments to the empirical and theoretic analyses that are presented here.

The *first* counter-argument asserts that Ukraine tolerated – rather than rejecting *tout court* – the formal change in policy (read the ECRML adoption *per se*), because she was in a weak bargaining – or power – position *vis-à-vis* the other more powerful states.³³ The problem with this argument is that the Ukrainophone elites were, as a matter of fact, sufficiently 'powerful' to reject, in domestic politics, the *substantive* change in Ukraine's language policy toward national minorities (and, particularly, Russian speakers).³⁴ Put differently, if the Ukrainophone elites *were* sufficiently powerful to do the latter – over possible objections by international organisations (such as the CE) – why were they then *not* sufficiently powerful to reject *tout court* Ukraine's formal and legalistic commitment to ratify just one treaty? This segues into the *second* counter-argument.

The second counter-argument asserts that Ukraine acquiesced in *formal* policy change, because it had been obliged to do so out of *reputational* concerns. This argument is not without merit, given that Ukraine's reputation – in Europe – is not taken lightly by many Ukrainophone elites. Yet I invite the reader to consider the case below. After all, at stake in the debate in Ukraine about the protection of language rights for national minorities, was the ratification of a single treaty, namely the ECRML. Furthermore, adoption of this particular treaty was certainly not one of the most urgent demands by international institutions (such as the CE). (The most urgent demands, of course, pertained to the rule of law and democracy in Ukraine.) Last but not least, the critics of the *ratified* ECRML in Ukraine were not naive or stupid to overlook this fact.³⁵

In the empirical analysis, which follows below, we examine in particular the struggles for power by the Russophones and Ukrainophones as well as the ways in which the ECRML ratification affected those struggles.

The troublesome ratification and implementation of the ECRML in Ukraine: an empirical analysis

In brief, the ECRML adoption in Ukraine took a decade to conclude. Further, the Ukrainophone elites failed both to forestall the treaty's ratification and to prevent its coming into force.

³³ For a classical discussion and treatment of power in international politics, see Hans J. Morgenthau, *Politics Among Nations: The Struggle for Power and Peace* (7th edn, Boston: McGraw-Hill Higher Education, 2006).

³⁴ Sceptics may legitimately observe that the Ukrainophone elites rejected the substantive change in Ukraine's language policy toward Russian speakers out of concerns over sovereignty. Yet, from this vantage point, it remains unclear why the Ukrainophone elites *allowed* this situation to surface, in which these elites *had* to go for rejection.

³⁵ Schools of thought that belong to realism and rationalism of course need not explain everything. Yet it is argued that the above can shed light on those events or happenings that are of major political importance to state elites. The latter is the case, for instance, when Krasner forcefully argues that '[i]n the international environment, logics of consequences dominate logics of appropriateness.' Krasner, *Sovereignty*, p. 51. But, given that the Ukrainophone elites act in ways that militate against their declared interests, the consequentialist thesis fails, at least in the Ukraine case. On *this* score, political scientist Ronald Rogowski aptly notes: 'A powerful, deductive, internally consistent theory can be seriously undermined ... by even one wildly discordant observation ...'. Ronald Rogowski, 'Review: the role of theory and anomaly in social-scientific inference', *American Political Science Review*, 89:2 (1995), pp. 467–70, 470.

Phase one: the Charter's forestalled initial ratification

At the time of Ukraine's joining of the CE in 1995 the Ukrainian governing elites apparently gave surprisingly little thought to how Ukraine's signature and (possible) ratification of the ECRML would affect Ukraine's language policy toward national minorities (and, particularly, Russian speakers).³⁶ Being buoyed by the hope of Ukraine's swift integration in Europe – and finding themselves to be under 'pressure' from European institutions – some Ukrainophone elites were evidently willing to commit themselves in principle to *any* treaty, including the ECRML. Ukraine's foreign ministry signed this treaty in 1996. This was also the formal 'deadline' for the treaty's ratification in Ukraine. The first attempts at the ECRML ratification, in 1996 and 1997, however, were unsuccessful (due to the inability of the deputies to put the treaty on the parliament's agenda).

As time passed, the Ukrainian governing elites found themselves to be under political pressure from the Parliamentary Assembly of the Council of Europe (PACE) to undertake *some* action. The largest concern of the Ukrainian governing elites at that time was Ukraine's possible expulsion from the PACE (over issue-areas which had nothing to do with the ECRML ratification). (However, the threat of being expelled from the PACE gave added stimulus to the ECRML adoption in Ukraine.)³⁷

The PACE threatened to expel Ukraine from its ranks for the first time in summer 1998. In the fall it reiterated its threat to expel Ukraine from its ranks 'by [summer] 1999 or earlier'.³⁸ This prospect of Ukraine's possible expulsion from the PACE put the Ukrainian governing elites on the defensive in terms of protecting the language rights of national minorities (including Russian speakers).

The Russophone elites began to work (systematically) on the bill on the ECRML ratification in 1999. At that time, these elites organised themselves in the *ad hoc* parliamentary group called 'In Favor of Cultural and Language Equality'. The main aim of the above group had been to change the minimalist bill on the ECRML ratification which then-President of Ukraine Leonid Kuchma submitted earlier to the parliament. (In particular, the Russophone elites wanted to include into the bill on the ECRML ratification the particular threshold in terms of the size of the Russian-speaking population in any given region or locality at which the Russian language would be qualified to receive official status.)³⁹ These successful attempts by the Russophone elites to modify the bill on the ECRML ratification on their own terms served to fan resentment among the Ukrainophone elites.

The Ukrainian parliament voted on the ECRML for the first time (in the first reading) in summer 1999. In large part, this was to give the Ukrainian diplomats in Strasbourg some breathing space.⁴⁰ Subsequently, the bill on the ECRML ratification was watered down (though it retained the particular threshold at which the Russian language would be qualified to receive official status).

With the possible expulsion of Ukraine from the PACE being slated for early 2000, the Ukrainian parliament scrambled to adopt the bill on the ECRML

³⁶ Anonymous interviews.

³⁷ See, for example, *Daily News Bulletin – Interfax*, 'Ukrainian delegates to PACE urge Kuchma to accelerate implementation of commitments before Council of Europe' (15 May 2001).

³⁸ Jaroslav Koshiw, 'Ukraine about to be shut out of Europe', *Kyiv Post* (18 December 1998), available at: {<http://www.kyivpost.com/content/ukraine/ukraine-about-to-be-shut-out-of-europe-1534.html>} accessed 5 October 2014.

³⁹ See Alekseev, *Begom ot Evropy*, pp. 58–60.

⁴⁰ *Ibid.*, p. 60.

ratification. So the bill on the ECRML ratification was passed by a narrow margin of several votes (in the 450-seat parliament).⁴¹ The adopted bill laid down that the Russian language would be qualified to receive official status in areas in which Russian speakers composed more than 20 per cent of the local population.

The critics of the adopted bill on the ECRML ratification then took to dilatory tactics in order to prevent it from coming into force. So, a large number of deputies asked the Ukrainian Constitutional Court to make a judgment as to the legality of the above (adopted) bill.⁴² In the meantime, the Ukrainian foreign ministry declined to deliver to the CE the so-called instrument of ratification.⁴³ (Doing thus was a requisite condition for the formal completion of the ECRML adoption.)

In summer 2000, the Constitutional Court declared the adopted bill on the ECRML ratification null and void. (The strict formal reason for this decision had to do with the fact that the above bill was signed by the parliament speaker rather than the president of Ukraine.)⁴⁴ That the Court's ruling was politically motivated can be seen in the fact that the other CE treaties, which were then ratified in Ukraine (including arguably the most urgent demand by the PACE, namely, the abolition of death penalty) were *not* signed by Kuchma, either. Yet these other CE treaties remained unaffected by the Court's ruling, which abrogated the law on the ECRML adoption.

To conclude, the initial attempt by elites in Ukraine to ratify the ECRML ran aground on the shoals of perception of threat shared by the Ukrainophone elite at large. For example, as a Ukrainophone deputy told me, opposition to the ECRML ratification on terms which were unacceptable to the Ukrainophone elites had to do with the fact that this ratification was seen by these elites as a political time-bomb waiting to explode.⁴⁵ Thus, in line with theoretical expectations, the Ukrainophone elites went the greatest lengths in order to delay the treaty's ratification indefinitely rather than reject it *tout court*.

Phase two: the Charter's laborious final ratification

As the ECRML entered the 'second' and more laborious phase of ratification, the critics of the earlier, 1999 version of the ECRML did their utmost in order not to permit it to be put on the parliament's agenda again. Yet, these elites did thus despite the fact that such tactics gave them only the second best option to nip the possible claims by the Russophone elites to *de jure* bi-lingualism in the bud. In other words, an alternate course of action, which is the rejection of the ECRML as such, was not put on the domestic political agenda.⁴⁶

Following the Court's annulment of the 1999 law on the ECRML ratification, Kuchma stated that he was against the two official languages in Ukraine, namely Ukrainian and Russian. Being an easterner and the native speaker of Russian, Kuchma embodies particularly well the rather ambivalent attitude towards Russian speakers, which all Ukrainian governing elites to some degree share. Hence our attention is turned for the moment to Kuchma, or, more exactly, his ascent to power.

⁴¹ *Ibid.*, p. 68.

⁴² See Dominique Arel, 'Interpreting "nationality" and "language" in the 2001 Ukrainian Census', *Post-Soviet Affairs*, 18:3 (2002), pp. 213–49, 233, fn. 33; and Alekseev, *Begom ot Evropy*, p. 70.

⁴³ Alekseev, *Begom ot Evropy*, p. 71.

⁴⁴ See Arel, 'Interpreting "nationality" and "language"', p. 233; and Alekseev, *Begom ot Evropy*, pp. 75–81.

⁴⁵ Confidential source.

⁴⁶ What is more, none of the interview subjects proposed that the ECRML ought to be rejected as such.

Kuchma was elected the President of Ukraine in 1994. During his electoral campaign, he (in)famously promised to the Russian-speaking constituencies that as President he would strive for having two official languages in Ukraine, namely Ukrainian and Russian.⁴⁷ Once Kuchma was elected the President of Ukraine, however, he backpedalled,⁴⁸ and set in motion what later would be called in popular historiography opportunistic state-building. Subsequently, he went through the motions in order to placate the Russian-speaking constituencies.⁴⁹

Thus, it may be a surprise that Kuchma, as we will see, on several occasions sped up the process of the ECRML adoption. At the same time, however, one ought to bear in mind that Kuchma apparently did not give much thought to language issues *per se*,⁵⁰ and that he sought to find the rapprochement with the CE and Russia.

In fall 2000, the PACE debated again whether to expel Ukraine from its ranks. In the follow-up report, the European Commission against Racism and Intolerance called on the Ukrainian authorities to complete the process of the ECRML adoption 'as rapidly as possible'.⁵¹

In spring 2001, the PACE threatened for the last time (under the temporal scope of the present analysis) to expel Ukraine from its ranks. (Stalled democratic reforms and the infamous murder of an opposition journalist were the basis for this last warning.) One high-ranking official in Ukraine called the prospect of Ukraine's expulsion from the PACE 'damaging to Ukraine's international image'.⁵²

In the meantime, leaders of town councils or parliaments in eastern Ukraine organised themselves in order to debate Ukraine's language policy toward national minorities (and, particularly, Russian speakers).

In this way, Kuchma found himself to be increasingly cornered. So, in summer 2001, he threatened to dissolve the parliament over slow political reforms and then submitted to the parliament a weaker version of the ECRML (compared to the earlier, 1999 version of this treaty). (It was this version of the ECRML that carried.)

Following the 2000 parliamentary elections, the group called 'In Favor of Cultural and Language Equality' dissolved itself.⁵³ Since then, the critics of the earlier, 1999 version of the ECRML blocked any attempts to put it back on the parliamentary agenda. The PACE, however, continued to pressure the Ukrainian governing elites into the ECRML adoption. For instance, in fall 2002, the PACE held a public seminar in the Ukrainian capital city on the aims and the scope of the Charter.⁵⁴

The Communist party then accused Kuchma of delaying the ECRML ratification. Kuchma caved in. He submitted to the parliament the bill on the ECRML adoption again. This gesture to the Russophone elites infuriated Ukrainian nationalists. For instance, the comment of one Ukrainian nationalist party stated: '[t]he destruction

⁴⁷ On the political legacy of Kuchma, see Stephen Shulman, 'Ukrainian nation-building under Kuchma', *Problems of Post-Communism*, 52:5 (2005), pp. 32–47.

⁴⁸ See Dominique Arel, 'Ukraine: the temptation of the nationalizing state', in Vladimir Tismaneanu (ed.), *Political Culture and Civil Society in Russia and the New States of Eurasia* (Armonk: M. E. Sharpe, 1995), pp. 157–88, 172.

⁴⁹ See Viktor Stepanenko, 'Identities and language politics in Ukraine: the challenges of nation-state building', in Farimah Daftary and François Grin (eds), *Nation-Building, Ethnicity and Language Politics in Transition Countries* (Budapest: Open Society Institute, 2003), pp. 109–35, 122.

⁵⁰ Confidential source.

⁵¹ ECRI (European Commission against Racism and Intolerance), *Second Report on Ukraine*, Document CRI (2002) 23 (Strasbourg: Council of Europe, 2002), para. 2.

⁵² *Agence France Presse*, 'Ukraine, assailed on rights, faces ejection from European body' (6 April 2001).

⁵³ Alekseev, *Begom ot Evropy*, p. 85.

⁵⁴ *Ibid.*, p. 83.

[of the Ukrainian language and culture] might take the form of a chain reaction: language – culture – nation – society – state'.⁵⁵

In early 2003, Kuchma instructed an *ad hoc* parliamentary group to prepare another bill on the ECRML ratification. Some elites anticipated or feared that even minimalist commitments of Ukraine under the ECRML would instigate the claims by the Russophone elites to *de jure* bilingualism. Hence, these elites excluded Russian along with the several other (minor) languages from the new version of the bill on the ECRML ratification.

At this time, the Russophone deputies faced an uphill battle to push their own version of the ECRML through the parliament. For instance, in one episode, the parliament speaker simply blocked the ostensibly pro-Russian motion from some deputies.⁵⁶

At about the same time the PACE sent to Ukraine a monitoring committee. The latter's visit coincided with the (final) debate in the Ukrainian parliament on the ECRML adoption. At the same time, however, the visit of the monitoring committee did not sway the opinion of those (Ukrainophone) deputies who were against the version of the ECRML of Kuchma. (This version of the *ratified* ECRML placed the Russian language in an equal position *vis-à-vis* the other languages that were protected under the ECRML.) Thus, two factions, led, among others, by (future President of Ukraine) Viktor Yushchenko, withheld their votes for the version of the ECRML of Kuchma. In this way, on 15 May 2003, the Communist party played the decisive role.

Before the parliament's vote on the ECRML ratification, Kuchma suddenly called for postponing this vote due to some 'shortcomings' in the bill on the ECRML ratification.⁵⁷ This prospect of an amended treaty served to unsettle the Communists, who then cast their votes in favour of the version of the bill on the ECRML ratification of Kuchma. So, the bill on the ECRML ratification was passed by a lopsided 249-10 vote due to the active support by the cornered Communists.

Kuchma then signed the adopted bill into law. In exasperation, one deputy called the adopted Charter 'a disgrace'.⁵⁸

Kuchma found himself to be in a difficult position, in which he had to deal with political scandals about himself and the apparent salient need to please Russia.⁵⁹ Nonetheless, he minced no words with regard to the troublesome prospects of the ECRML implementation. As he put it:

[The Charter's implementation] depends not so much on laws and charters as on the political will of the entire Ukrainian government to support the state language [Ukrainian, remember]. We know far too well that Ukraine's – and not only Ukraine's – laws unfortunately lack effective enforcement procedures. Again, it is my own belief that the Ukrainian language is developing and will continue to develop, and this is a process that is taking place in all of Ukraine's regions.⁶⁰

⁵⁵ Mykola Babych, 'Narodny Rukh of Ukraine condemns attempts to give Russian status of second state language', *Ukrainian News* (6 November 2002).

⁵⁶ Alekseev, *Begom ot Evropy*, p. 85.

⁵⁷ Rita Mishneva, 'Russians deemed an ethnic minority', *The Current Digest of the Post-Soviet Press*, 55:23 (2003).

⁵⁸ Dmytro Horshkov, 'MP Yavorivskiy urges Kuchma to veto charter of regional languages', *Ukrainian News* (3 June 2003).

⁵⁹ Confidential source.

⁶⁰ *BBC Monitoring International Reports*, 'Ukrainian leader boasts economic growth, dwells on politics' (28 May 2003).

To conclude, the critics of the ratified ECRML most probably failed to reject the treaty as such *not because of it per se*. The main reason for this is that the Ukrainophone elite at large most certainly wanted to *sidestep* a discussion or a debate about the above treaty's ratification and the protection of language rights for Russian speakers. Yet, this elite arguably could not do so due to the fact that the ECRML ratification and protection of language rights for Russian speakers were continuously put on the domestic political agenda in Ukraine.⁶¹ Or, to put it otherwise, the Ukrainophone elite did not *want* to dodge its commitment to *some* form of compliance with the ECRML because it faced the accusations by its Russophone counterpart about acting in non-European fashion.⁶²

Phase three: Denouement

Yushchenko, who came to power after the Orange Revolution in 2004, oversaw completion of the ECRML ratification. In the meantime, the outgoing Kuchma administration left in its train the political void, which was 'soon' filled by the Party of Regions, headed by Yushchenko's major political opponent – in the above revolution – Viktor Yanukovich. The political confrontation between Yushchenko and Yanukovich, which ensued, made it possible for the Party of Regions to mount a frontal attack against the Orange allies, who – soon – proved to be *disunited*. As we will see below, the ECRML enactment in no small part 'helped' the above challenge.

Following the parliament's ratification of the ECRML (in 2003), the foreign ministry declined again to turn over the instrument of ratification to the CE. This *delay* led one Communist deputy to make repeated attempts to put the ECRML *enactment* on the government's agenda. Yet, in early 2005 the government broached the idea of *changing* the adopted bill on the ECRML ratification.⁶³ Nonetheless, the above proposal failed to gain momentum. (Perhaps in part this was because of international pressure on Ukraine to complete the procedure of the ECRML ratification, at last.)

In summer 2005 PACE President René van der Linden noted in his address to the Ukrainian parliament that the Ukrainian governing elites should take heed of '[t]he latest monitoring report [which had been] handed over to the Ukrainian side for comments.'⁶⁴ This report called on the Ukrainian authorities to complete the procedure of the ECRML ratification 'without any further delay'.⁶⁵ The report, arguably, had influence, considering that the foreign ministry *delivered* the instrument of ratification to the CE just shortly before the PACE autumnal session in 2005. The adopted bill on the ECRML ratification, thus, came into force in January 2006, which turned out to be on the eve of the 2006 parliamentary elections in Ukraine.

⁶¹ The norm of language rights for national minorities is obviously the necessary condition for the ECRML adoption in Ukraine. At the same time it is likely not a *sufficient* condition for the treaty's ratification in Ukraine. (That is, absent constant attention to the ECRML in politics in Ukraine, the urgency for this treaty's adoption, in the eyes of the Ukrainophone elite at large, would be less pronounced.)

⁶² See Alekseev, *Begom ot Evropy*. It is perhaps ironic that, stepping outside the line of 'attack' by the Russophone elites, meant, for the Ukrainophone elites, to embrace the norm of language rights for national minorities *in toto*.

⁶³ *Ibid.*, p. 93.

⁶⁴ 'Statement by the President of the Parliamentary Assembly Mr Rene van der Linden in the Verkhovna Rada of Ukraine' (7 July 2005), available at: {http://assembly.coe.int/Communication/PresidentSpeeches/2005/Verkhovna_Rada_Ukraine070705E.htm} accessed 6 October 2014.

⁶⁵ Council of Europe, *Honouring of Obligations and Commitments by Ukraine*, Document 10676 (Strasbourg: Council of Europe, 2005), para. 333.

The above elections brought a large influx of deputies from the Party of Regions to the town/region councils in eastern and southern Ukraine. These newly formed councils, then, pressed under the prodding of the Progressive Socialist Party of Ukraine for protection of language rights for Russian speakers, by leaning upon the ECRML.⁶⁶ Between spring and summer, the councils passed, in a flurry of activity, more than a dozen of resolutions aimed at granting the Russian language official (or ‘regional’) status.⁶⁷

The above councils’ resolutions elicited strongest condemnation from the Ukrainophone elite at large. For instance, Yushchenko denounced the councils’ resolutions as the ‘parade of sovereignties’⁶⁸ and called the attempts by the Russophone elites at autonomy ‘a knife in our root’.⁶⁹ Furthermore, the ultra-nationalist Congress of Ukrainian Nationalists urged the government ‘to rise to the defense of the Ukrainian language as an essential asset of the country’s independence and uniqueness of the Ukrainian nation’.⁷⁰

Yushchenko then tasked the prosecutor-general to bring the councils’ decisions into line with the position of the ministry of justice. (The latter argued that any changes to the status of languages in Ukraine were the sole prerogative of the *parliament*.) The tug of war ensued. (In the end, the councils’ resolutions had been overturned by the local prosecutor-generals by early 2007. In some town/region councils, however, the ostensibly pro-Russian resolutions remained, in the legalistic sense, in force.)

To some degree, the councils’ actions *were to be expected*, given that some town/region councils had already passed ‘similar’ resolutions in mid-1990s – prior to Ukraine’s signature of the ECRML. Hence the Ukrainophone elite at large proved to be entirely correct in its anticipation or fear that its political opponents would, sooner or later, pose a challenge in the arena of politics.

In 2010 Ukraine held presidential elections. Yanukovych promised, at these elections, that as President he would strive for having *two* official languages in Ukraine, namely Ukrainian and Russian, and staked his claim on the ECRML.⁷¹ As the day of elections drew nearer, however, Yanukovych stopped emitting ‘strong signals’ to the Russian-speaking constituencies, in part because he ran neck and neck with former prime minister Yulia Tymoshenko in the central regions of Ukraine.⁷² Further, once the Party of Regions claimed the victory in the above elections, it called for adopting the ‘tolerant’ position on the question of language rights for Russian speakers.⁷³ At the same time, however, later, the Party of Regions began to work on several legislative bills aimed at granting the Russian language official status. So, on the eve of the 2012 parliamentary elections, the Ukrainian

⁶⁶ Confidential source.

⁶⁷ The town/region councils’ resolutions had been adopted in the following towns and/or regions: Kharkiv, Luhansk, Sevastopol, Donetsk, Dnipropetrovsk, Mykolaiv, Yalta, Kirovohrad, Zaporizhya, Alushta, Odesa, and Kherson.

⁶⁸ Pavel Anokhin, ‘Brzezinski doesn’t understand Russian’, *The Current Digest of the Post-Soviet Press*, 58:21 (2006).

⁶⁹ Daria Hluschenko, ‘Yuschenko calls on Donetsk authorities to promote tolerance and implement policy of unity’, *Ukrainian News* (30 May 2006).

⁷⁰ *Itar-Tass Weekly News*, ‘Ukrainian nationalists urge pres [sic] to defend Ukrainian language’ (6 May 2006).

⁷¹ *BBC Monitoring Ukraine & Baltics*, ‘Ukrainian opposition leader vows “comfortable conditions” for Russian language’ (5 September 2009).

⁷² Confidential source.

⁷³ *RIA Novosti*, ‘Ukraine would be split by referendum on Russian language – MP’ (23 February 2010).

parliament passed the law that in essence granted the Russian language such status. In turn, some (Ukrainophone) deputies went on hunger strikes in protest of the law's passage and pledged to rescind it.⁷⁴ Now, following Yanukovich's removal from power, through popular protests, in winter 2014, the Ukrainian parliament abrogated the Yanukovich language law.⁷⁵ It was in this political context that Russia, under Vladimir Putin, started the contested military occupation of the Crimea. Given this, the interim head-of-state in Ukraine declined to sign the above counter-bill into law.⁷⁶

There are several reasons why the Crimea crisis in Ukraine⁷⁷ would most probably make it more difficult for the Ukrainophone elite at large to 'get around' the apparent salient need to abide – in word and deed – by the norm of language rights for national minorities. For one, international pressure on Ukraine increased to abide by the above norm after the beginning of the Crimea crisis. Furthermore, the Ukrainophone elite at large seemed to have accepted this demand of international organisations (such as the CE). Lastly, and arguably most important, the traumatic experience of *Ukraine* (which is associated with the latter's essential dismemberment, by Russia, as a unitary state) would most certainly make it seem to be prohibitively costly for the Ukrainophone elite at large *not* to attend to the apparent salient needs of national minorities (including Russian speakers) in coming years.

Conclusion

On the analytical level, this article has distinguished between the two possible effects of the role of international agency, namely, between the secondary adverse effect and the primary 'conducive' effect. The former is so called because it leads to an intensification of a given conflict. The latter is so called because it contributes in a certain way to the (quasi-)amelioration of a given conflictual situation. These possible effects of the role of international agency need not be unique or special to *Ukraine*.⁷⁸

Further, the present article has attempted to show, in the methodologically rigorous manner, that the norm of language rights for national minorities had autonomous influence in the Ukraine case. The *sine qua non* of the above assertion has been the demonstration that the formal change in Ukraine's language policy toward national minorities (and, particularly, Russian speakers) was unequivocally at odds – or downright contradictory – with the most salient apparent interests of the Ukrainophone elite at large – which is the protection of the Ukrainian language as the country's sole official language.

These empirical findings pose a difficult challenge for those analyses or theories, which posit that we can best explain the variable behaviour of state elites by looking

⁷⁴ 'Devyat Ukrainsev obyavili golodovku protiv zakona o yazykakh' (9 July 2012), available at: {<http://www.km.ru/ukraina/2012/07/09/viktor-yanukovich/devyat-ukrainsev-obyavili-golodovku-protiv-zakona-o-yazykakh>} accessed 6 October 2014.

⁷⁵ Alec Luhn and Oksana Grytsenko, 'Ukraine fails to break stalemate with pro-Russian protesters in East', *The Guardian* (11 April 2014), available at: {<http://www.theguardian.com/world/2014/apr/11/ukraine-interim-prime-minister-fail-break-stalemate-east>} accessed 7 October 2014.

⁷⁶ *Ibid.*

⁷⁷ The Crimea crisis subsequently metamorphosed into the larger regional conflict. It is impossible to evaluate this larger conflict on its own terms here. I thank one of the reviewers for this hint.

⁷⁸ See, for example, Hans Peter Schmitz, *Transnational Mobilization and Domestic Regime Change: Africa in Comparative Perspective* (New York: Palgrave Macmillan, 2006).

at their objective interests.⁷⁹ Now in IR, constructivist⁸⁰ scholars, like Martha Finnemore,⁸¹ take on such theories (for example, realism and rationalism) by criticising or problematising the notion of ‘state interests’ in the first place. At the same time, however, although such a constructivist challenge – to interest-based theories – is valid and commendable on its own terms, there is reason to believe that scholars who treat the interests of states as given (rather than potentially malleable or ‘constructed’) do not take it seriously. For, what ordinarily occurs is that advocates of interest-based theories or analyses simply redefine the apparent salient configuration of ‘interests’ which state elites are *presumed* to have. Thus, it is all the more pertinent to *complement* constructivist analyses with an empirical and theoretic one which poses a challenge to the interest-based tradition of inquiry on terms which the advocates of the latter *share*.

I conclude this article with a commentary on why weak and contested international norms, like the norm of language rights for national minorities, are worthy of study. First, such norms likely exist in relatively large numbers, as common sense suggests. Thus such norms may be worthy of attention in and of themselves. Second, a focus on weak and contested norms (like the norm of language rights for national minorities) is desirable, because it should encourage a comparison of norms. In turn, such comparison may shed light on why some norms ‘succeed’, whilst others ‘fail’. Third and finally, the comparison of norms may well give us better analytical and empirical leverage to arbitrate *which* theories or analyses fare better.

⁷⁹ It might be counter-argued that compliance by some Ukrainian elites with the ECRML – on the strictly minimal and formal level – was ‘cheap talk’ *par excellence*. At the same time, however, although it might have been cheap talk in regards to a particular version of the ECRML, it is clear that some elites risked much in terms of policy implications by *engaging* in it. Moreover, not only did these elites engage in cheap talk, they *also* went to great lengths in order to ‘sell it’ for norm-compliant behaviour with regard to the implementation of the norm of language rights for national minorities. For instance, some Ukrainophone elites created the myth – that had been widely circulated in the Ukrainian mass media – according to which the *raison d’être* of the ECRML was to protect solely those languages, which were on the brink of extinction. Confidential source; see also Daria Hluschenko, ‘Yuschenko to preside at NSDC meeting on language problems’, *Ukrainian News* (19 May 2006).

⁸⁰ For select key works in the constructivist tradition of inquiry, see Nicholas Greenwood Onuf, *World of Our Making: Rules and Rule in Social Theory and International Relations* (Columbia: University of South Carolina Press, 1989); Emanuel Adler, ‘Seizing the middle ground: constructivism in world politics’, *European Journal of International Relations*, 3:3 (1997), pp. 319–63; Alexander Wendt, *Social Theory of International Politics* (New York: Cambridge University Press, 1999).

⁸¹ Finnemore, *The Purpose of Intervention*.