

# UNIVERSAL PERIODIC REVIEW (UPR) STAKEHOLDER SUBMISSIONS

Advocacy Group for Freedom of Identity (AGFI)  
Civic Engagement Movement (CEMO)  
and  
Szekler National Council (SNC)

Joint Submissions  
to the United Nations  
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## Romania

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## I. Executive Summary

This memorandum is jointly submitted by Advocacy Group for Freedom of Identity (AGFI), Civic Engagement Movement (CEMO) and Szekler National Council(SNC) in advance of the third periodic review of Romania at the Human Rights Council. It addresses three crucial areas of minority rights: 1) Public use of minority languages 2) Rights of minorities *to* and *in* education 3) rights of minorities to exercise fully and effectively all their human rights without any discrimination, particularly the right of freedom of peaceful assembly.

It summarises the submitting organisations' observations on the progress and shortcomings of Romanian relation to the implementation of relevant accepted recommendations. While the submission address minority rights issues in general, it focuses in particular on the situation of the Hungarian community, the largest minority in Romania, amounting to 6.5% of the population.<sup>1</sup> This memorandum also includes recommendations on how the Working Group should encourage the government of Romania to address these issues.

**AGFI** is a human rights organisation based in Cluj-Napoca/Kolozsvár working to promote and protect human and minority rights as well as strengthen democratic values, rule of law, and transparency through litigation and advocacy.

**CEMO** is a human rights NGO based in Tîrgu Mureş/Marosvásárhely founded in 2007. CEMO has developed and implemented a wide range of advocacy projects focusing on the implementation of linguistic and other minority rights of the Hungarian community as set in domestic law and relevant international treaties.

**SNC** is a civil society based regional movement created in 2003 to defend and advocate for the human and minority rights, including self-determination, of the Szeklers, a Hungarian speaking regional community in southeast Transylvania, Romania.

## II. Public use of minority languages

Recommendations accepted: 199.26, 109.28, 109.38, 109.42, 109.44, 109.45, 109.49, 109.47

### A. Linguistic landscape of public spaces

1. "Language rights are effective only if they can be enjoyed in the public sphere" and right to use one's language in public is one of the main means to "assert and preserve

linguistic identity.”<sup>1</sup>It also enables every person belonging to a minority to exercise their freedom of expression. Moreover, the linguistic landscape of public spaces carries a symbolic meaning. Monolingual landscapes often serve to canonise a particular language or culture, while multilingual public signs convey an important message about the acceptance and accommodation of minority languages and the legitimacy of their uses<sup>2</sup> International minority rights law, elaborated in Articles 10 and 11 of the Framework Convention for the Protection of National Minorities (FCNM) and Article 10 of the European Charter for Regional or Minority Languages (ECRML), contains the main principles relating the use of the minority languages in public. They stipulate that, *inter alia*, provisions must be made for topographical indications to be displayed also in minority languages in areas traditionally inhabited by substantial numbers of persons belonging to a national minority.

2. While Law no 215/2001 on public administration requires the use of minority languages for signs indicating the names of localities where a minority community represents over 20% of the local population, its relevant provisions are implemented in an unsatisfactory manner. Please see Appendix 1.
3. Local authorities often interpret this threshold requirement in an overly restrictive manner. For instance, in Cluj-Napoca/Kolozsvár—the home of the 2<sup>nd</sup> largest Hungarian community in Romania—the Hungarian community represented 23% of the population according to the latest census (i.e. 1992) at the time of the enactment of the law. However, the local government failed to implement the law and claimed that they were not required to display multilingual place signs because the percentage of Hungarians has fallen under 20% since then. A collective lawsuit joined by over 370 claimants was initiated to address the issue. In its judgment on 21 February 2017 the Court ordered the display bilingual place-name signs clarifying a legal uncertainty about the use of census data to interpret the threshold requirement.
4. Furthermore, despite sufficient demand, in many areas traditionally inhabited by substantial numbers of members of the Hungarian community, street names remain monolingual or partially bilingual. This is partly due to the fact that the Law no 215/2001 does not explicitly require the display of street names in the minority language, causing legal uncertainty. For example, the state level equality body, the National Council for Combating Discrimination (NCCD) declared the monolingual and partially bilingual

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<sup>1</sup> ACFC Third Commentary on Language Rights (Language Rights Commentary) adopted on 24 May 2012, paras 51-52.

<sup>2</sup> ACFC Third Commentary on Language Rights (Language Commentary) adopted on 24 May 2012, para 67.

format of street signs Tîrgu Mureş/Marosvásárhely<sup>3</sup>discriminative, <sup>4</sup>but the Court of Appeal overturned the decision.<sup>5</sup>

5. In Satu Mare/Szatmárnémeti, Oradea/Nagyvárad and Tîrgu Mureş/Marosvásárhely street-signs are monolingual. When requests were submitted to display them, local authorities stressed in their official reply that irrespective of relevant international treaties domestic law does not stipulate this legal obligation. Indeed, they incorrectly stated that it *does not allow* the display of bilingual street signs.<sup>6</sup>The First Instance Court in Satu-Mare/Szatmár ruled that bilingual street signs do not need to be displayed despite the Hungarian community making up 40 percent of the population.<sup>7</sup>

## **B. Use of minority languages in relations with administrative authorities in areas inhabited by national minorities traditionally or in substantial numbers**

6. International minority rights law provides the conditions under which minority languages should be used in relations with administrative authorities. For example Article 10 of the FCNM guarantees the rights to use the minority language in relations with administrative authorities “in areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need.”
7. Moreover, through the ratification of the ECRML with regards to the Hungarian language the Romanian Government assumed the responsibility, *inter alia*, to take the proper measures to:
  - *ensure the use of Hungarian language in written or oral form during administrative process;*
  - *make available frequently used administrative texts and forms in Hungarian and ensure that users of minority languages can submit these documents in their own language;*
  - *allow the administrative authorities to draft documents in Hungarian;*
  - *encourage the publication by regional authorities of their official documents also in Hungarian;*
  - *allow publications by local authorities of their official documents also in Hungarian;*

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<sup>3</sup>The town gives home to the largest urban Hungarian community and 42.8% of the population declares itself Hungarian.

<sup>4</sup>NCCD decision No 421/2014. The NCCD relied on *inter alia* on the Article 11.3 of the FCNM, the 3<sup>rd</sup> state report submitted to the AC FCNM, as well as the local anti-discrimination law in its reasoning.

<sup>5</sup> Appeal number 39713 from September 24, 2014. An appeal request was submitted to the High Court of Cassation and Justice in June 2015 (**High Court of Cassation and Justice**, case No 335/43/2014.) The case remains pending; no hearing has taken place to this date.

<sup>6</sup> In 2016 CEMO has initiated court cases against the mayor’s office of Tîrgu Mureş-Marosvásárhely, Oradea/Nagyvárad, Satu Mare/Szatmárnémeti as several hundred thousands of Hungarians are being affected in these three localities.

<sup>7</sup>Decision 599/2017 from 23 March, 2017. The decision is currently being appealed.

- *ensure that the Hungarian language is used in the provision of the service, including the possibility of submitting and receiving all relevant document in Hungarian.*<sup>8</sup>

To fulfil the abovementioned commitments, Romania also pledged to take steps to recruit and train officials in relevant minority languages.

8. The Law no. 215/2001 on public administration regulates the use of minority languages in relation with administrative authorities, yet its implementation is very weak and irregular. For example, relevant provisions of the law stipulate the minority languages speakers can submit oral or written applications and receive a reply in minority languages where the 20% threshold is reached. However, these provisions are rarely implemented due to lack of proper methodological provisions for their applications, weak sanctioning system, non-existence of special budget allocation, and lack of linguistic skills of public servants.<sup>9</sup>
9. Moreover, Law 215/2001 is not fully in line with Romania's obligations stemming from its ratifications of relevant international instruments. For instance, the ECRML guarantees for administrative forms in minority language; however, the relevant provision of the law provide for administrative forms only in Romanian. However, the most recent attempt to amend the law to ensure effective transposition of rights led to anti-Hungarian, nationalistic political discourse. Leading political figures and the Romanian mass-media considered the law-harmonising aspirations of the Hungarian community – with regards to the ratified minority language rights – unconstitutional, illegitimate and anti-Romanian.<sup>10</sup>

### III. Rights of minorities to and in education

Recommendations accepted: 109.26, 109.28, 109.29, 109.30, 109.35, 109.38, 109.42, 109.44, 109.45, 109.49, 109.47

Recommendations partially accepted: 109.116, 109.118, 109.123, 109.124

10. International human and minority rights law guarantees not only the right of members of minorities “to good quality, free primary education and equal access to secondary

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<sup>8</sup>ECRML, Article 10.

<sup>9</sup>Public servants' linguistic skills are not an employment criteria but the result of the demographic composition of an administrative unit. Furthermore, Hungarians are especially underrepresented in the military and police even where Hungarians are a majority.

<sup>10</sup>Former president Traian Basescu distorted historical facts in order to appeal to nationalistic sentiments in his facebook post: <https://www.facebook.com/PresedinteleTraianBasescu/posts/1676336662379878>  
Journalist Marius Diaconescu considers the amendments of language rights a ‘trap’ prepared by the Democratic Alliance of Hungarians from Romania:

[http://adevarul.ro/news/eveniment/capcanele-udmr-uluidin-legea-utilizarii-limbii-maghiare-administratie-1\\_5948c66b5ab6550cb850b162/index.html](http://adevarul.ro/news/eveniment/capcanele-udmr-uluidin-legea-utilizarii-limbii-maghiare-administratie-1_5948c66b5ab6550cb850b162/index.html)

education (*right to education*) but also sets “standards on how such education should be shaped in terms of content as well as form (*rights in education*) in order to facilitate the development of the abilities and personality of the child, guarantee child safety and accommodate the linguistic, religious, philosophical aspirations of pupils and their parents.”<sup>11</sup> Indeed, language is a crucial component of individual and collective identity, and measures to protect and develop the languages of minorities have a crucial role not only in preserving individual identity, but also ensuring equal access to education.”<sup>12</sup>

## **A. Education in Minority Languages and Equal Access to Education**

### **1. Numerical thresholds for creation of classes**

11. The Law No 1/2011 on Education establishes the minimum, maximum as well as average number of pupils for classes for each education level. While these thresholds should apply equally to both Romanian and minority language classes and schools, they are sometimes interpreted in a restrictive and discriminatory manner by the School Inspectorates, prejudicing the Hungarian children’s equal access education.
12. For instance, a problem arose recently in Cluj/Kolozs County in relation to establishing an art class in a Hungarian school. While in secondary educational institutions, a class must have on average 25 pupils, but not less than 12 and not more than 30 pupils. While the Country School Inspectorate approved the start of two art classes in a Romanian school—one having 17 and the other having 18 pupils— it disapproved the request for establishing an art class in a Hungarian school for 16 pupils, claiming that the number of students would be insufficient.<sup>13</sup> Furthermore, these children now must attend other— non-art—classes, resulting in cases when the number of pupils is over the maximum limit, thus jeopardising the quality of minority language education of aloof these children. While in a recent decision the NCCD found the practice of the county’s School Inspectorate discriminatory, violating the Hungarian students’ right to education in mother tongue,<sup>14</sup> the problem has not been remedied yet.

### **2. Enrolment plans and available places and classes for Hungarian pupils**

13. Another major issue posing threat to equal access to education is related to the enrolment plan through which School Inspectorates regulate the number of available places and classes for pupils starting each school year. In Mureş/Maros County’s discrepancies were already discovered in the Draft School Enrolment Plan for the 2009-2010 school year. For Hungarian students, the draft school enrolment plan allocated only

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<sup>11</sup> ACFC First Commentary on Education under the FCNM(Education Commentary) adopted on 2March 2006.

<sup>12</sup>Language Commentary, para 72.

<sup>13</sup> The name of the affected Hungarian school is Apáczai Csere János; and that of the Romanian one is Romulus Ladea.

<sup>14</sup> Decision no. 273/2017 of NCCD.

1,400 places for 1,862 elementary school graduates, while in the case of Romanian language classes allocated 4,200 places for 3,700 Romanian graduates.<sup>15</sup>

14. The NCCD initiated an *ex officio* investigation in the case, found the practice of the county's School Inspectorate and the draft enrolment plan discriminatory, and recommended the School Inspectorate to revise the plan by increasing the number of Hungarian-language places.<sup>16</sup> While the figures were initially raised, they were modified three months later, necessitating a submission of another NCCD complaint. The NCCD reiterated again that the School Enrolment Plan was discriminatory<sup>17</sup> however, despite these decisions; the issue has remained unresolved up to this date.

### 3. Physical and Financial Barriers to equal access to education

15. Minorities face an additional challenge in accessing education in their mother tongue when there is no minority education institution in their settlement. The Law 1/2011 on Education stipulates that transportation to the nearest settlement where minority language education is available must be guaranteed, and it enumerates several types of support, from reimbursement of travel expenses to operation of school buses. However, this transportation support needs to be financed by the local council, and is not provided from the central budget through the Ministry. Thus, minority children living in poorer settlements are exposed to the problem that local councils cannot provide adequate transportation support. Moreover, due to the upper limit set for travel reimbursements by the Government Decision 29/2013, some minority children commuting to school receive only partial travel reimbursement.
16. A minority education monitoring project identified *inter alia* the following problems:
- Some Hungarian children need to be transported by their parents (at own costs) or commute by foot to the nearest Hungarian language schools/classes as no school bus is operated in their area neither is travel reimbursed.
  - Some Hungarian children cannot attend the closest school where Hungarian education is available thus attend Romanian language classes because:
    - a. The school and the settlement are in two different counties, the school bus cannot operate across counties.
    - b. No school bus is operated nor is there a regular bus service between the two settlements.
    - c. Commuting is supported only for children who live near the school but not for those living farther-away.
    - d. The costs of their commuting are not reimbursed fully.<sup>18</sup>

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<sup>15</sup>This constitutes a violation of Article. 45, Paragraph 1 of the Law no. 1/2011 on national education as those children who dropped out of the allocated places were denied the right to study in their mother tongue in high school, and they were forced to continue their studies in Romanian.

<sup>16</sup> Decision no. 47, 2009 of NCCD.

<sup>17</sup> Decision no. 291/2009 of NCCD.

<sup>18</sup> <http://iskolakveszelyben.ro/>

#### 4. Equal access to technical and vocational education

17. In many Hungarian language technical and vocational high schools, vocational subjects are still taught in Romanian due to shortage of teachers able to teach these subjects in Hungarian. The Committee of Experts on the ECRML (Committee) already highlighted this issue in 2012 as a problem and “*encourage[d] the Romanian authorities to ensure that there is a sufficient number of teachers able to teach subjects in Hungarian in technical and vocational education.*”<sup>19</sup> Romania acknowledged that the issue still has not been resolved in its recent state report submitted to the Committee.<sup>20</sup>
18. The University of Medicine and Pharmacy of Tîrgu Mureş/Marosvásárhely (UMPT) is one of the eleven universities in Romania where medical training takes place, but it is the only one in the country that has a Hungarian line of study. However, despite clear legal provisions<sup>21</sup>, not all subjects are taught in Hungarian, thus Hungarian students receive practical and clinical training in Romanian. Moreover, the UMPT refused to establish Hungarian departments. In relation to these issues, the Ministry of Education issued an opinion (Letter 49858/06.10.2011 of the General Legal Directorate of the Ministry of Education) instructing the university to take all necessary steps to create independent Hungarian departments and ensure full-fledged Hungarian language teaching for students. Despite these clear ministerial instructions, the university has still failed to implement the relevant provisions of the law.<sup>22</sup>

#### B. Content and form of education

##### 1. Teaching of the official language

19. Parallel to ensuring that minorities can learn and develop their language, measures to adequately develop minorities’ proficiency in the official language are also necessary to ensure minorities’ effective participation in public life, access to higher education and

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<sup>19</sup> Paragraph 499, Report of the Committee of Experts on the Charter for Regional or Minority Languages, ECRML (2012) 3, Strasbourg, 19 June 2012. Romania noted that the problem of teachers who teach specialized technical education in Hungarian language is mainly due to the fact that most teachers in specialized technical fields prefer to work in the private field.

<sup>20</sup> Second periodical report presented to the Secretary General of the Council of Europe on the implementation by Romania of the European Charter for Regional or Minority Languages, MIN-LANG (2016) PR 2, Strasbourg, 2 March 2016, pp. 166.

<sup>21</sup> Article 135, Paragraph 4 of the Law no. 1/2011 on national education states that “*in the higher education system for national minorities, cycle I ensures academic graduate studies, cycle II ensures master studies, and cycle III PhD studies, as well as postgraduate education, in the mother tongue.*” Furthermore, Article 363 recognises the UMPT as one of the three multicultural and multi-language universities in Romania, requiring the establishments of independent departments for each language track.

<sup>22</sup> Also, it is important to mention that the Ministry of Education did not use all its available means to intervene. According to Article 125, Paragraph 1 of Law no. 1/2011 on national education could use several measures to force universities to enforce the law. For example, such measures include the reduction or (temporary) elimination of funding from public sources.



access to employment.<sup>23</sup>Therefore, the education in Hungarian schools and classes should not prejudice the learning and teaching of the official language of the State.

20. The Law no 1/2011 on education states that Romanian language and literature should be taught as a second language to minority pupils. In 2001 a separate curriculum was introduced for primary schools, yet it was only recently adopted. Meanwhile, high schools teach the same curriculum to both minority speakers and native Romanian students. The absence of distinction has damaging effects. Hungarian speaking children from communities with a Hungarian majority struggle to learn Romanian and complete their schooling without satisfactory knowledge of the official language, hampering their effective participation in public and economic life. Additionally, Hungarian speaking students receive lower grades in Romanian language and literature when completing their Baccalaureate exam. This restricts their prospects when seeking university admissions.

## 2. Intercultural Content of Mandatory Curriculum

21. Curricula should adequately reflect the diversity and plurality of society and the contribution of minorities to society.<sup>24</sup>This necessitates *inter alia* including information on the history and contribution of minorities to the cultural heritage and the society of the country in the curriculum.<sup>25</sup>
22. However, while minorities must learn the language and history of the majority, members of the majority do not acquire through education adequate knowledge of minorities' culture and historical perspectives. For instance, Romanian children seldom learn about Hungarian culture and history; nor do they acquire basic Hungarian linguistic skills, even in localities where Hungarians represent the majority.
23. Unless awareness of and respect for the linguistic and cultural diversity of society are promoted through education of both minorities and the majority and without introducing multiple perspectives into history teaching, understanding and acceptance of cultural differences will remain limited and intercultural dialogue and promotion of mutual understanding will be significantly hindered. History education is of crucial importance in this regard. There is a need not only to introduce the perspectives of minorities into history teaching but also to eliminate stereotypes and prejudices in history textbooks.
24. A comprehensive research carried out in 2016 by the *Center for Legal Resources*<sup>26</sup> analysed the representation of minorities in 13 history textbooks for 7<sup>th</sup>, 11<sup>th</sup> and 12<sup>th</sup> grade

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<sup>23</sup>Language Commentary, para. 80.

<sup>24</sup>UN Forum on Minority Issues, Compilation of Recommendation of the First Four Sessions 2008 to 2011, p.12.

<sup>25</sup>Education Commentary, paras 40-41.

<sup>26</sup> The Centre for Legal Resources (CRL) is a non-governmental, non-profit organisation, established in 1998 by the Open Society Foundation, which actively advocates for the establishment and operation of a legal and institutional framework that safeguards the observance of human rights and equal opportunities, free access to fair justice and which contributes to the capitalisation of its legal expertise for the general public interest.

students, approved by the Ministry of Education, Research and Youth for the 2015-2016 school year for secondary education.<sup>27</sup> The main findings of the research are the following:

- Most history textbooks focusing on the history of Romania omit the role of minorities in history and strengthen existing stereotypes;
- The Romanian community is presented as more autochthonous than other ethnic groups in these textbooks;
- The cohabitation of different ethnic groups in Transylvania before the First World War is presented mostly through interethnic conflict, depicting ethnic Hungarians as oppressors of ethnic Romanians;
- The Hungarian community's revisionist tendencies are presented without mentioning the anti-Hungarian policies of Romanian authorities between the two world wars;
- Textbooks fail to offer a fair representation of religious diversity. They mostly focus on the orthodox religion, and they often only refer to the Romanian Greek-Catholic church as a minority religion, failing to mention other autochthonous historical churches like Roman-Catholics, Calvinists, Lutherans or Unitarians.

### 3. Linguistic landscape in educational institutions

25. Language also plays a significant role in promoting mutual respect among groups and social solidarity, and awareness of and respect for the linguistic diversity of society shall be promoted from an early age onwards.<sup>28</sup> This implies *inter alia* the need to provide “education about and of minority languages for the benefit of the majority language speakers and society as a whole,”<sup>29</sup> and to ensure fair representation of different languages in educational institutions.<sup>30</sup>
26. Linguistic landscape of educational institutions is of crucial symbolic importance. Monolingual landscape in schools projects an exclusionist view of culture into physical space, while multilingual landscape represents linguistic and cultural diversity and creates a favourable environment for intercultural understanding and respect for the linguistic diversity in educational institutions.
27. Significant improvements are needed in this regard. For example, in Tîrgu Mureş/Marosvásárhely, giving home to the largest urban Hungarian community, the school network includes approximately 45 educational institutions; most of them function as mixed schools, having both Hungarian and Romanian language taught classes. The internal and external linguistic landscape of these institutions are mostly

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<sup>27</sup>See: <http://www.crj.ro/wp-content/uploads/2016/11/CRJ-Analiza-Manuale-Istorie-educatie-fara-discriminare.pdf>

<sup>28</sup> Language Commentary82.

<sup>29</sup>*Ibid.*, para 79.

<sup>30</sup> There is a pending case against the Mayor's Office related to this issue, and the first hearing is expected to take place within in September 2017.

exclusively Romanian; public interest information (e.g.: names of labs, offices, auxiliary premises, warehouses, workshops, *etc.*) including safety signs, and names of classrooms and administrative offices are monolingual (i.e. Romanian). Administrative personnel, school nurses and doctors, librarians often do not speak Hungarian, and elementary school pupils (between age 6 and 10) cannot communicate with them without their teachers, who need to act as translators and interpreters. The school projects and events are predominantly held only in Romanian. Educational institutions are named after famous Romanian literary and historical figures; only three institutions are named after Hungarian figures.

28. The NCCD found the monolingual linguistic landscape of schools discriminatory against Hungarian students<sup>31</sup> and has enumerated a set of criteria which must be implemented in order to create bilingual linguistic landscape in these institutions. Nevertheless, up until this date, only four primary schools and a small number of kindergartens have changed their linguistic landscape; the majority of the schools remained reluctant to implement the recommendation of the NCCD. Indeed, when civil society activists started a bilingual signs donation campaign,<sup>32</sup> the School Directorate circulated a letter to the school network stating that internal spaces of the schools are the property of the Mayor's Office and institutions accepting and displaying the donated signs would be fined.<sup>33</sup> Since the situation remained unresolved, in 2016, another complaint was submitted to the NCCD regarding the linguistic landscape of approximately 30 educational institutions, including kindergartens, primary schools and middle schools, and vocational schools. So far, the NCCD found 17 institutions' linguistic landscape discriminatory against Hungarian children and students.<sup>34</sup>

#### **IV. Rights of minorities to exercise their right of freedom of peaceful assembly without any discrimination**

Recommendations accepted: 199.26, 109.38, 109.42, 109.44, 109.45, 109.49, 109.47

29. The right to assemble peacefully is essential to any functioning democratic system and is necessary to build a tolerant and pluralistic society. It is also an important minority right "since democracy does not simply mean that the views of the majority must always prevail" any abuse of a dominant position must be avoided and minorities need to be

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<sup>31</sup> In this initial complaint, four schools were included.

<sup>32</sup> CEMO, with support of Hungarian parents, donated bilingual signs, including classrooms names, security signs, exit signs to the four schools. However, only one school accepted the donations.

<sup>33</sup> There is a pending case against the Mayor's Office related to this issue, and the first hearing is expected to take place within the first half of 2017.

<sup>34</sup> NCCD decisions: 623/December 12, 2017, 154/1<sup>st</sup> of March, 2017 (this decision covers 13 institutions), 399/March 17, 2017. Other decisions are still pending.

treat equally.<sup>35</sup> In addition, the right to peacefully assembly is an important step in “the maintenance and development of culture and preservation of minority identities.”<sup>36</sup>

30. Despite constitutional guarantees, public authorities have consistently tried to restrict the right of peacefully assembly of the Hungarian speaking Szekler community, particularly through prior restraint on and sanctions and penalties imposed during/after their annual event, the Day of Szekler Freedom (DSF). The DSF is organised annually on 10 March in Tîrgu Mureş/Marosvásárhely, by SNC, attracting 10,000-40,000 participants. One of its main goals is to protest the planned administrative reforms, which would merge three counties with substantial Szekler-Hungarian population (Harghita/Hargita-82.9%, Covasna/Kovászna-73.79% and Mureş/Maros-38.09%) into a larger administrative region (together with overwhelmingly Romanian Alba, Sibiu, and Braşov counties), in which the proportion of Szekler-Hungarians would drop below 30%.
31. Following a peaceful demonstration on 10 March 2014, the local law enforcement agency fined the organisers for 12,000 RON (2700 EUR) for “organising and conducting undeclared, unregistered or prohibited public meetings” because they failed to obtain a prior authorisation from the police. However, Law 60/1991 requires organisers only to submit an advance notice of the intent to hold an assembly but not a request for permission from the law enforcement agency.<sup>37</sup> Prior notification about the assembly was submitted to public authorities in a proper and timely manner, in line with the relevant provisions of the law. Since organisers received no response from authorities in advance of the event indicating any restrictions, they properly assumed that they had a right to proceed.
32. The following year, in 2015, the Mayor issued a prior place and manner restriction in relation to the DSF, claiming that it leads to “ethnic unrest”, and turns the city into a “conflict zone.”<sup>38</sup> However, it should be emphasised that relevant international law makes it clear that public order restrictions should be imposed *only if* there is “compelling and evidence demonstrating that those organising or participating in the particular event are planning to use violence themselves,” or “participants will themselves use or incite imminent, lawless and disorderly action and that such action is likely to occur.”<sup>39</sup> Prior restrictions imposed on the basis of the possibility of minor incidents of violence are disproportionate and constitutes a violation of the right of freedom of peaceful assembly.<sup>40</sup> Furthermore, the presence of a hostile audience is also an illegitimate ground for restricting the right of peaceful assembly. Indeed, the state has a positive duty to actively protect peaceful assemblies, particularly where the persons organising and

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<sup>35</sup> OSCE Office for Democratic Institutions and Human Rights: Guidelines on Freedom of Peaceful Assembly, 2<sup>nd</sup> edition, 2010, (OSCE Guidelines) para 7.

<sup>36</sup> *Ibid.*, Explanatory notes, para, 3.

<sup>37</sup> The organisers filed lawsuit against the law enforcement agency, but the case is still pending after more than 3 years.

<sup>38</sup> The appeal of this decision was dismissed due to procedural reasons.

<sup>39</sup> OSCE Guidelines, paras, 71-73.

<sup>40</sup> *Ibid.*

participating in an assembly are advocating a view that is unpopular among the majority, increasing the possibility of hostile opposition.<sup>41</sup>

33. In an attempt to prevent prior restriction of future events, the organisers submitted a notice to public authorities well in advance about the holding of the DSF in the subsequent years. In their response, the authorities argued that organising the DSF in 2016 would be problematic, given that it falls into an election year, and that road construction works had been planned due to which public security across the town would be constantly changing. The organisers appealed the decision, and the Court ruled in favour of them concluding that the above mentioned arguments of public authorities lacked any kind of legal basis to place restriction on the event, and that the organisers fulfilled all prior notification requirements.<sup>42</sup>
34. In 2016, a week after the DSF was peacefully held, penalties were imposed; this time targeting not only the organisers but also participants. Moreover, exceptionally high fines were issued. In fifty instances, 66,000 RON (13,700 EUR) fines were issued for participating in an undeclared, unregistered or prohibited public meeting; and 9,800 RON (2,200 EUR) in more than forty cases for noise disturbance.<sup>43</sup> It should be noted that according to relevant international standards, any restrictions imposed on freedom of assembly must be proportional,<sup>44</sup> and the imposition of disproportionate sanctions constitute unlawful interference with the right to freedom of peaceful assembly.<sup>45</sup>
35. Freedom of peaceful assembly is to be enjoyed equally by everyone, so public authorities must not discriminate against a particular group or individual when regulating the freedom of assembly. Therefore, it is worth comparing the restriction of the right of peaceful assembly of the Szekler community with the approach of public authorities to extremist groups.
36. The far-right *Noua Dreaptă* (New Right) movement repeatedly organises marches in Hungarian majority areas, chanting offending and hateful slogans such as “Get Hungarians out of the country!”, “Romanian language is the only ruler” or that “Romania is for Romanians”.<sup>46</sup> However, their events never encountered any content-based, time-place-or manner or sight-and-sound restrictions and sanctions and penalties were seldom if ever imposed during or after their events, even when they failed to fulfil the advance notice requirement.<sup>47</sup>

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<sup>41</sup>*Ibid.*, 33.

<sup>42</sup>Decision No. 16/2016 of 8 January, 2016.

<sup>43</sup> These allegations came despite the fact that the organisers filed a prior notification, according to the provisions of the law with the Mayor’s Office already on 2 March 2015, announcing that they will hold the DSF in the same place also on 10 March 2016 and 2017.

<sup>44</sup>OSCE Guidelines, 39.

<sup>45</sup>*Ibid.*, 109.

<sup>46</sup><http://www.maszol.ro/index.php/belfold/39447-magyarellenes-roman-unnep-sepsiszentgyorgyon>, [http://www.nyugatijelen.com/jelenido/a\\_magyar\\_irredentizmus\\_ellen\\_tuntetek\\_aradon.php](http://www.nyugatijelen.com/jelenido/a_magyar_irredentizmus_ellen_tuntetek_aradon.php), <http://www.kozpont.ro/hirek/belfold/marosvasarhelyen-tuentetett-az-ujjobboldal/>,

<sup>47</sup><http://mno.hu/hatarontul/a-szekelyek-nem-magyarok-tuntettek-a-szelsonacionalistak-1138066>. See video on the event at: <http://ziuadecj.realitatea.net/eveniment/noua-dreapta-a-pichetat-consulatul-maghiar-din-clujfotovideo--106254.html>, accessed: 2017.06.17.

## RECOMMENDATIONS

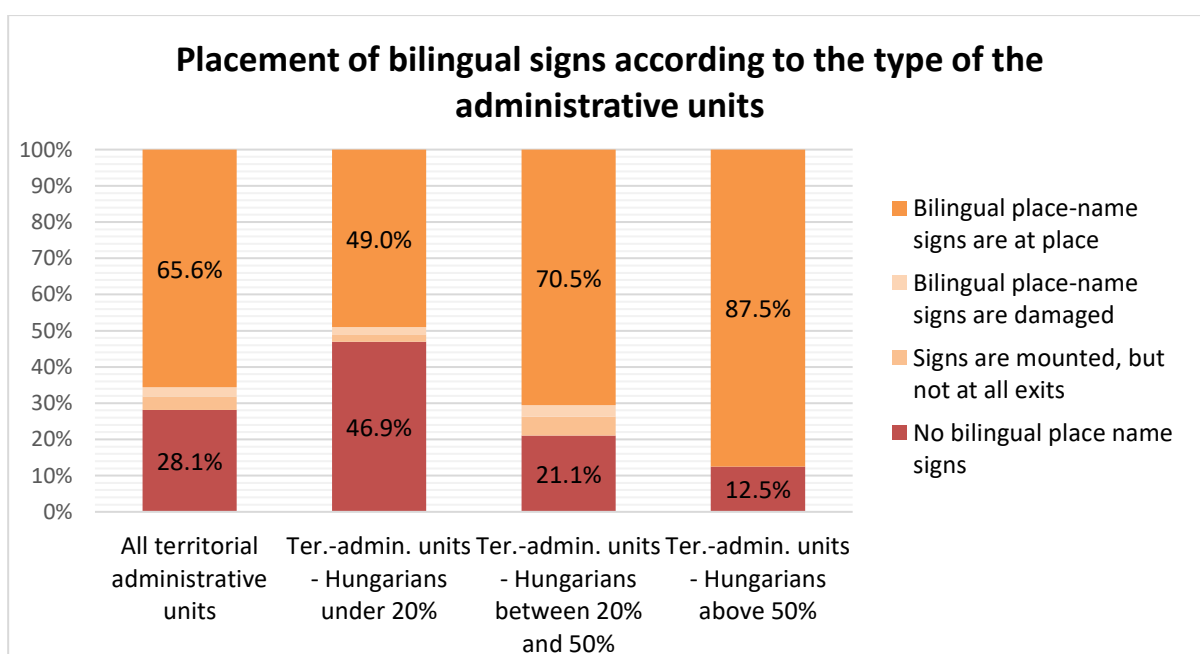
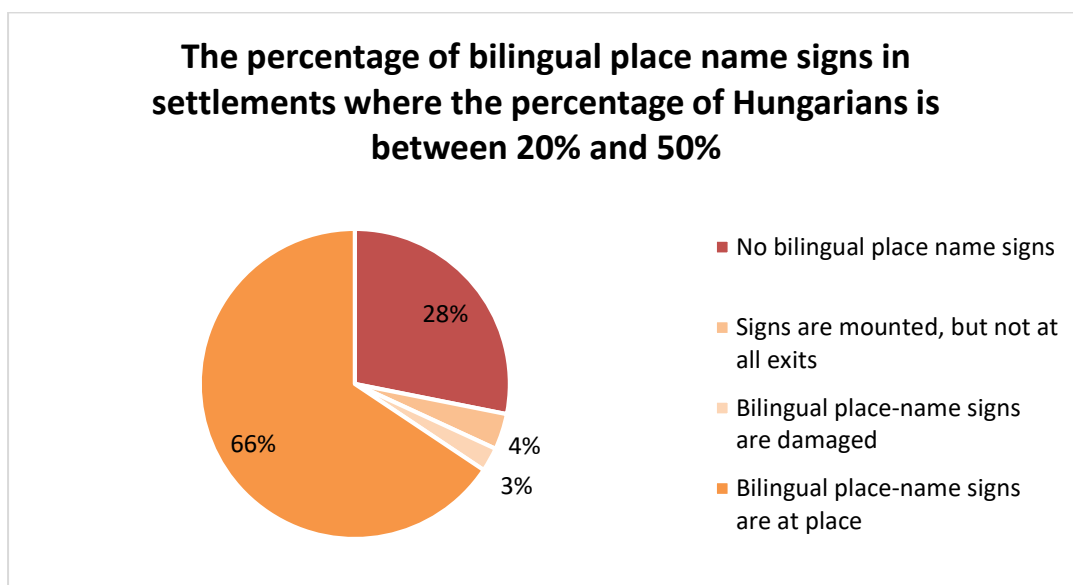
**Submitting organisations request that the Working Group to make the following recommendations to Romania:**

1. Amend any relevant national legislation without delay in order to ensure full compliance with all obligations stemming from the ratification of minority rights treaties, including the FCNM and ECRML. In particular, ensure that relevant domestic law explicitly requires the display of street names and other topographical indications intended for the public in the minority language.
2. Ensure full implementation of the law on public administration and clarify the legal uncertainty about the use of census data to interpret the threshold requirement for displaying topographical signs in minority languages.
3. Review and revise the *curricula* and history textbooks to ensure that diversity of cultures and perspective of minorities are reflected and that stereotypes and prejudices are eliminated.
4. Implement relevant recommendations of the NCCD in relation to minority rights, including linguistic landscapes of educational institutions.
5. Ensure equal access to education of minorities by guarantying that school enrolment plans and the numerical threshold for creation of classes are not used a discriminatory way and by removing any physical or financial barriers in accessing education in minority language.
6. Take necessary steps to ensure equal access to technical and vocational education in the minority language.
7. Take measures to ensure that minority pupils learn Romanian language and literature as a second language from kindergarten to high school based on a separate curriculum addressing their language needs.
8. Guarantee the right of freedom of assembly of minorities without discrimination; in particular ensure that the rights of participants and organisers of the Day of Szekler Freedom are not unduly restricted.

## APPENDIX 1

These data were collected between December 2016 and January 2017. Table 1 illustrates the situation of those settlements and Table 2 of those administrative units where Hungarians represented over 20% of the local population based on the 1992 census at the time of the Law No 215/2001 coming into force.

Article 76 of the Law No 215/2001 refers to administrative units in relation to the 20% threshold, while the legal document outlining the method of its implementation refers to settlements. This differentiation is important as for example based on the letter of the law; linguistic rights might not need to be guaranteed in a village where Hungarians represent 70% of the local population if the village is part of a larger Romanian-majority municipality.



### The completion rate of our survey according to the type of territorial-administrative unit

