

EDUCATION OF LINGUISTIC COMMUNITIES IN CEE AND THE ROLE OF THE NGOS IN THIS REGARD

What does the CoE see?

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1. Introduction

This paper examines the justiciability of the prior right to education of the one of the most vulnerable parts of the society: the minorities. In my research I would like to point to the linguistic communities' education, which is a key issue in my opinion in the multilingual and multicultural Central and Eastern Europe (CEE). The two main target groups of this survey are the Roma and Hungarian education as these are the two main minorities in the region, however, I tried to enlarge the survey to all the significant linguistic minorities of the region.

Regarding the connection between linguistic rights and educational rights I focus on the question whether current international framework regarding minority education is relevant, and if yes, does the Council of Europe (CoE) gain appropriate and sufficient information on minority education? What is the role of the civil actors in this respect?

2. Relation between identity, language and education

Regardless of the lack of a general normative definition accepted of “national minorities”, yet we may accept that regarding the meaning of that phenomenon the almost a century-long literature's position is nearly unchanged. Yet, following the UN documents (International Covenant on Civil and Political Rights and Resolution 47/135), the CoE documents (Framework Convention and Language Charter) as well as the relevant literature (Capotorti, Eide, Smith, Kovács, Heintze, Bibo, or Flachbarth) my starting point is that a “national minority” is characterized by

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both a significant character, which directly links to their identity and a numerical component, which is an objective criteria.¹ Thus, it seems to be wise to start our survey at the relevant international documents.²

According to Article 27 of the CCPR, *ethnic, religious or linguistic* character can be determined. However, education is not a direct element of identity of minorities in the related UN and CoE documents. In this regard, linguistic rights can *contribute* fulfilling educational rights and *vica versa*.

Preservation and maintaining of a minority's identity and the language is thus rest on *two pillars*. One is the ability to use the language freely both in oral and written form in private and in public. The other is the possibility to teach the certain language in every level and form to the future generations.³

This importance of education of linguistic communities is, however, can be seen in several international treaties and documents. The United Nations' General Assembly adopted the Resolution 47/135 in 1993 of which Article 4 (paragraphs 3 and 4) calls upon States to promote teaching in/of the mother tongue and culture.

In fact, more than seven decades had to pass in the international organizations' history to be able to deal with the content of the education and not just the frame as was in the early 20th century instruments as it is shown in the following.

3. The early international regulatory framework for education rights in CEE

Codification affecting national minorities has rapidly evolved after the First World War. Contracts closing the cataclysm had separate provisions on minorities, more or less in detail.

In connection with the educational provisions I examined 5 of the era's international treaties such as the 1919 Saint-Germain-en-Laye Agreement with Austria, Czechoslovakia and the SHS Kingdom, the 1919 Paris Agreement with Romania, and the 1920 treaty with Hungary.

The contracts⁴ contains the following issues related to minorities:

- the clause of General legal equality,⁵
- right to life and freedom⁶

¹ In this regard "numerical component" means: group of native citizens who are numerically less than the major group.

² Péter KOVÁCS: Minorités: peuple qui n'a pas réussi. In: Hervé ASCENSIO – Pierre BODEAU – Mathias FORTEAU – Franck LATTY – Jean-Marc SOREL – Muriel UBÉDA-SAILLARD (eds.): *Dictionnaire des idées reçues en droit international*. Paris, Editions Pedone, 2017. 381.

³ Tove Skutnabb-Kangas considers these pillars as Linguistic Human Rights. TOVE SKUTNABB-KANGAS: Linguistic Human Rights. In: TIERSMA–SOLAN (eds.): *The Oxford Handbook of Language and Law*. Oxford, Oxford University Press, 2012. 235–236.

⁴ In the following as "minority contract" I refer to the contracts with Czechoslovakia, Romania and the SHS Kingdom.

⁵ Czechoslovakia Article 7 (1); Romania Article 8 (1); SHS Kingdom Article 7 (1).

⁶ Czechoslovakia Article 2 (1); Romania Article 2 (1); SHS Kingdom Article 2 (1).

- Language rights;⁷
- Freedom of religion and belief⁸
- Citizenship⁹
- Institution-establishment rights¹⁰
- Education¹¹
- Religious and educational autonomy¹²

The examined contracts are mostly similar in structure. Obligations of the states follow each other in the similar order in each agreement, basically in the same text.

The texts regarding education had an almost uniform wording:¹³

“[The state] will provide in the public educational system in towns and districts in which a considerable proportion of [the State’s] nationals of other than [majority] speech are residents adequate facilities for ensuring that the instruction shall be given to the children of such [State] nationals through the medium of their own language. This provision shall not prevent the [State] Government from making the teaching of the [majority] language obligatory.”

The prescribed “adequate facilities” provided a broad framework, which allowed the same text to be applied to all countries. Interestingly, despite of the same rules, the domestic legal systems developed in very different ways. Some of the achievements of regulations that were introduced in the mid-war period still can be seen in the contemporary legal systems.

An example for such (non-internationally obligated) instrument is the 3-level linguistic education system, where Type A) is where the teaching language is the minority language, the type B) is where the teaching language is a minority language, however the majority language is a compulsory subject; and type C) is where the teaching language is the majority language, but the minority language is a compulsory subject. However, this variety of linguistic education was introduced by Hungary in the mid-war-period, today this model of education, which takes local characteristics also into account, is exercised only in Croatia among the examined countries.

⁷ Article 7 of Czechoslovakia (3–4); Romania Article 8 (3-4); SHS Kingdom Article 7 (3–4).

⁸ Czechoslovakia Article 2 (2), Article 7 (2); Romania Article 2 (2), Article 8 (2); SHS Kingdom Article 2 (2), Article 7 (2), Article 10.

⁹ Czechoslovakia 3–6. article; Romania 3–7. article; Kingdom of SHS Article 3–6.

¹⁰ Article 8 of Czechoslovakia; Romania Article 9; SHS Kingdom Article 8.

¹¹ Article 9 of Czechoslovakia; Romania Article 10; SHS Kingdom Article 9.

¹² Romania Article 11.

¹³ This is a transformation of the text. Here I highlight the common text of the same regulation.

Above all, the most important experience of these international treaties perhaps is that international law recognized minority rights at an early stage, and within both the language and the education rights.

4. The fulfillment of current international obligations -a comparative study

The international regulation regarding minority protection born in the '90s – in the context of the breaking-up of the Soviet Union – played a key role in maintaining regional stability of CEE. The two main Council of Europe convention, both the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages recognizes not only rights for the minorities, but also obligations to the Member States, which is going to be important with regard to the fulfillment of educational rights.

These two international instruments are monitored by the CoE by a similar way: the county reports are examined by an independent commission of professionals, who are preparing an opinion to the Committee of Ministers to adopt a recommendation. In this research I examined eight¹⁴ middle-European countries' most recent reports and opinions¹⁵ in the scope of the fulfillment of the articles relating education:

- Framework Convention: Articles 12, 13, 14;
- Language Charter: Article 8.

In the following I highlighted the issues that are common in the Carpathian region as well as the tools suggested by the two commissions.

4.1. Statistics

If we have a glance at the population statistics of 2015, with few exceptions, we may conclude that in the examined countries the largest numbers of minorities are Hungarians and Roma/Gypsy. Another observation according to the evolution of the population: the number of ethnic communities (linguistic communities) are running out, while the Roma population is still growing in the last decades.

¹⁴ Austria, Slovakia, Ukraine, Romania, Serbia, Croatia, Slovenia, Hungary.

¹⁵ Language Charter documents reviewed: *Slovakia*: 3rd and 4th monitoring cycle. *Ukraine*: 1st and 2nd monitoring cycle and the country report submitted for the 3rd monitoring cycle (MIN-LANG (2016) PR 1). *Romania*: 1st monitoring cycle and the country report submitted for the 2nd monitoring cycle (MIN-LANG (2016) PR 2). *Serbia*: 2nd and 3rd monitoring cycle. *Croatia*: 4th and 5th monitoring cycle. *Slovenia*: 3rd and 4th monitoring cycle. *Austria*: 2nd and 3rd monitoring cycle. *Hungary*: 5th and 6th monitoring cycle.

Framework Convention documents reviewed: *Slovakia*: 2nd and 3rd monitoring cycle. *Ukraine*: 2nd and 3rd monitoring cycle. *Romania*: 2nd and 3rd monitoring cycle. *Serbia*: 2nd and 3rd monitoring cycle. *Croatia*: 2nd and 3rd monitoring cycle. *Slovenia*: 2nd and 3rd monitoring cycle. *Austria*: 2nd and 3rd monitoring cycle. *Hungary*: 2nd and 3rd monitoring cycle.

	SK	UA	RO	SRB	HR	SI	AU	HU
Country size (km ²) ¹⁶	49 035	603 550	238 391	77 474	56 594	20 273	83 879	93 011
Population ¹⁷	5 421 349	44 429 471	19 870 647	7 176 794	4 225 316	2 062 874	8 576 261	9 855 571
Number of Hungarian Minority ¹⁸	458 467	159 297	1 227 623	253 899	14 048	6 243	25 884	-
Number of Roma ¹⁹	105 738	47 587	621 573	147 604	16 975	8 500	4 348	315 583
3 largest minorities by population (%) ²⁰	Hungarian (8,5), Roma (2), Czech (0,6), Ruthenian (0,6)	Russian (17,3), Belorussian (0,6), Moldavian (0,5)	Hungarian (6,1), Roma (3), Ukrainian (0,2)	Hungarian (3,5), Roma (2), Bosnian (2)	Serbian (4,3), Italian (0,4), Roma (0,4)	Serbian (2), Croatian (1,8) ... Italian (0,1)	Hungarian (7,8), Croatian (5,9), Slovenian (5,4)	Roma (3,2), German (1,8), Slovak and Romanian (0,36)

The statistics also repeatedly refer to census data, in which it is clear that the use of the mother tongue is marked more times than the national belonging. One explanation for that is in many countries Roma tend to taken into account themselves as Hungarians.

Nowadays international obligations are significantly more specific than it was in the previous texts of the early 20th century. The framework of the Language Charter approaches from a structural view from the pre-school to higher education, adult education and vocational education. The Framework Convention has another perspective: approaching from the content of the education.

Both the conventions applied the similar mechanism where the key role lies at the independent body (committee of experts / advisory committee). This body gains information from the state (governments) on the one hand and form its own on-the-spot visits on the other hand. From the point of view of the linguistic communities the main question is whether the committees reach the adequate and relevant information? What does the CoE see from a broad picture of a minority's present?

If we compare the CoE documentation it shows the by today the recommendations are not mainly on legislative and legal issues but *often beyond the law*: means of management, support, cooperation or even sensitizing the majority society and striving towards peaceful coexistence. In the following I highlight the common

¹⁶ Source: Eurostat (2016).

¹⁷ Source: Eurostat (2016).

¹⁸ Source: most recent country reports to the examined conventions.

¹⁹ Source: most recent country reports to the examined conventions.

²⁰ Source: most recent country reports to the examined conventions.

findings of the above mentioned CoE documents. In other words: these are the common issues (or problematic fields) that the CoE sees in the examined CEE region.

4.2. Roma education

The first common highlighted educational area is the Roma/Gypsy education. It seems the CoE recognizes that the Roma community should not be treated as one of the linguistic minorities, partly because they are usually regarded not like that. On the other hand, romas formulate completely different educational demands than others. Roma communities intend to be integrated first and promotion of use of language is a secondary issue besides that. However, it should be noted that romas usually speak in a minority language, so in many countries it is a twofold issue (ethnic *and* linguistic). In contrast, other linguistic communities usually just require self-reliance (self-governance), which may be expressed i.e. as a demand for separated (and not segregated) classes or the right to establish own school. Needs of these two groups are not interchangeable, which is acknowledged by the committees as well. In state reports for the Framework Convention member states usually report the educational programs and integration strategies in detail. We shall note that special Roma strategy has been introduced to all the countries surveyed, which deals largely with educational issues. However, in spite of the strategies, for example Slovakia and Romania reports difficulties of inclusion of Roma in education. We can observe the similar situation in Croatia where this particular number is high: the Croatian country report refers to a UN survey, which states that only the 25% of Roma children finish primary school. Slovenia employs special language support, and educational advisors for this purpose.

4.3. Recent changes in legislative environment

In the examined region significant legislative changes have taken place between 2010-13. New acts on education were adopted in Slovakia, Ukraine, Romania and Hungary. Beside legislative measures, some institutional changes (such is the Slovakian newly introduced minority plenipotential or the Educational Center in Komarno/Révkomárom) have occurred in the same period of time. These new instruments will have effect on the educational system, which will provide measurable outcomes in the next cycles of reports.

4.4. Accessibility

The accessibility to the right to education for minorities in this particular region is basically guaranteed. The reports and the opinions of expert committees and the advocacy of civil actors can further refine this picture.

The meaning of a “minority-language” or “bilingual” school get different interpretations in different countries. Slovakia set a strict 50–50% of Slovak and minority-language classes in the curriculum. In contrast, Croatia, which introduced a differentiated educational model, does have a school that works completely in the

minority language. Another variation can also be observed in the case of Slovenia, which has mixed schools, but there are also many who are involved in trainings in neighboring countries (Hungary and Austria).

It is an important element of accessibility to have the minorities informed about the opportunity of minority-language training, for example in those countries where the participation is bound to limit (Serbia, Austria). Awareness, as a role of local civil society actors is invaluable in this regard.

According to the reports, it seems that a well-functioning minority school shall have: 1) student, 2) teacher and 3) teaching materials, school books. Among these three factors the teacher training and the curriculum is included in the conventions. Comparing the most recent reports (the last in three years' time), only Serbia reported the increasing number of students enrolled in the bilingual trainings. In all the other countries, the number of students is decreasing parallel to their population.

4.5. Quality of training

The summaries of the expert committees contain more information about the quality of training than the country reports. According to the results of this comparison, two subjects can be pointed out as main factors of minority-language training: (1) the issue of the quality of the language, and (2) the quality of the textbooks and teaching materials. However, any minority language is a living language, without conscious use of that particular language it is more exposed to shallowing, archaizing or loss. Worrying reports have been coming for more than a decade from East-Slovenia, where a fast loss of language can be detected of the small Hungarian community. The Slovenian report unfolds that the teachers' command of the Hungarian language is so weak that in many cases they do not able to reach the appropriate level of teaching in minority language. In Slovenia, there are only four kindergartens, four elementary schools and one middle school accessible for the little more than six thousand Hungarians – no wonder that nurturing a new generation of teachers struggling with significant problems. Similar, but not that alarming warnings coming from Transcarpathia (Ukraine), Burgenland (Austria) and East-Croatia as well. These warnings are mainly provided by local civil associations according to the opinions of the committees.

4.6. Publishing textbooks

Publishing textbooks is one of the main problematic issues in all the examined countries. Although, minority language textbooks are available in all the countries (*pro forma*), it is not so easy to use them in minority education (*de facto*). Two striking examples can be highlighted. Serbia for example, reports a long list of minority-language textbooks, but it is clear from the commissions' evaluation report that there is a serious administrative burden related to book publishing, which slows down processes. Due to this barrier, new book almost can not even show up to the semester in which those were supposed to, so the old ones or the Serbian (majority) language books are taken instead. In Slovakia after a long time finally a Hungarian textbook

was introduced to the administrative authority, which was, however, rejected by the Ministry of Education in 2015 and can not be used ever since.

4.7. Teacher training

Teacher training in all regions struggling with challenges. Speaking about the largest Hungarian minority, first it seems that there is at least one higher education institution in each region, which trains minority language teachers. In the low-inhabited minority areas (Slovenia, Austria) the main reported problem is a shortage of students, but in the large population areas, like Vojvodina (Serbia) the lack of training materials and textbooks is the subject of complains. Slovakia recently introduced teaching of tolerance in teacher training which is a novelty in the region. There is also one important issue in this sphere, which appears implicitly in the CoE documents: the low prestige of teaching as a career. The Romanian report is to map out that vocational schools are lack of Hungarian-speaking trainer, who usually go to business sector rather than teach at school. The teaching profession's existential undervaluation is observed, or at least suspected, in almost all the studied countries. If a teacher is the foreign trained (it usually means trained in the kin-state) recognizing diplomas may arise as a problem, which had appeared Romanian-Serbian relations previously.

4.8. Other problematic issues

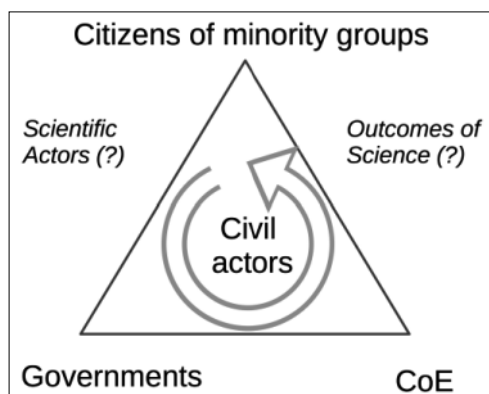
Some of the difficulties that affect the education systems in the region are uncovered during the on-the-spot visits of the expert committees. The first is the trend of centralization of governance, which is common in the CEE counties. In education and mainly regarding curricula, it means the regional needs are counted less than the central interests. Shaping education to the special needs of sub-region or at least recognition of local specialties is almost impossible. (On the other hand we shouldn't forget, that we are speaking about middle and small sized European countries where the local needs are often too small comparing to larger states.) Teaching of history and cooperation between majority and minority is also a sensitive issue, but apparently due to the Language Charter's targeted implementation and monitoring we can observe a much larger dialogue on this issue than before. However, the Language Charter's Committee of Experts regularly calls the examined countries to include minorities in the preparation of curricula.

5. How to develop spreading of information in common issues of education?

The answer to the question raised at the beginning of our survey that whether the correct and sufficient information come to the Council of Europe is mainly yes. The multi-source model, by which the Committees gain information seems to be working properly.

It is important to identify those actors who can provide information for the committees of experts. Besides the governments, the civil and political organizations

have to be highlighted, which are sometimes specialized in certain matters, such as education. As a result of the above comparison, I am convinced that minorities' civil organizations form a bridge – as communication channels – linking the international organization, the state and the minority citizens. Their main responsibility is to provide adequate communication to all other actors, so the relevant information is transferred properly.



In addition to the above, more and more research of the highest quality addresses the educational sector from a point of view of pedagogy, methodology and linguistics. However, the questions examined in the scientific literature are often not echoed in country reports or evaluations, nor even in the linguistic strategies of certain counties or minorities. This leads us to the conclusion that there is no proper channel of information between the scientific sphere and civil or political actors.

In summary, it worth emphasizing that the above examined international treaties have a key role to the region's stability. Developing rational linguistic policies are still the strongest supporters of maintaining peaceful coexistence of different languages and communities in the CEE region.