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LEGAL PROTECTION OF NATIONAL MINORITIES IN SLOVENIA

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Abstract

The Constitution of the Republic of Slovenia mentions only Italian and Hungarian national minority and Roma community as holders of special collective minority rights. Special rights of the autochthonous Italian and Hungarian national minorities in Slovenia are defined in Article 64. Although data on the ethnic structure in Slovenia reflect more heterogeneous ethnic structure, members of other ethnic groups than Italian and Hungarian national communities and Roma community, at present, do not have the status of a national minority in the sense of collective holders of minority rights. In February 2018 the draft Act on the Implementation of Collective Cultural Rights of National Communities of the Nations of the Former Socialist Federal Republic of Yugoslavia in the Republic of Slovenia was prepared. The draft received a support within the National Parliament of the Republic of Slovenia for further consideration.

Key words: national minorities, legal regulation, Roma community, new minorities, human rights

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Introduction

Only Italians and Hungarians living in Slovenia have the status of a national minority in the Republic of Slovenia, and the Roma community is considered as an ethnic group. The Constitution of the Republic of Slovenia provides special rights only to autochthonous Italian and Hungarian national communities and to the Roma community. Stipulations are further implemented by the entire legal order and by the measures of the government policy.

Due to the specific situation of the autochthonous Italian and Hungarian national communities in Slovenia, which is a result of historical reasons and their traditional presence, their status is defined in the Article 64 of the Constitution. Already in the time of gaining independence in 1991, the Chapter III of the Basic Constitutional Charter on the Sovereignty and Independence of the Republic of Slovenia to the Constitution of the Republic of Slovenia declared as follows: "The Italian and Hungarian national communities in the Republic of Slovenia and their members shall be guaranteed all the rights provided in the Constitution of the Republic of Slovenia and international agreements. "

The special rights of the Italian and Hungarian national communities are guaranteed based on the autochthonous settlement of both communities, irrespective of the number of members of both communities. According to the territorial principle, the special rights are exercised in ethnically mixed areas inhabited by the Italian and Hungarian national communities. Special rights are implemented at "nationally mixed area", which is determined by the statutes of municipalities and derives from the traditional settlement and autochthonous origin of national minorities in these areas (Law on the Establishment of Municipalities and Determination of their Areas, Official Gazette 60/94). The official language in the Republic of Slovenia is Slovenian. In nationally mixed areas where autochthonous Italian or Hungarian national minority resides, the official language is also Italian or Hungarian (Constitution of the RS, Article 11).

In the last population census in 2002, 2.258 persons declared themselves as members of the Italian national community, which represents 0,11 per cent of the entire population in Slovenia. 3.762 persons stated the Italian language as their mother tongue. Among 2,258 persons declared themselves as Italians 1.840 members of the Italian national community live on the ethnically mixed area in three coastal municipalities (Koper, Izola, Piran), which represents 81.5 per cent of all Italians in the Republic of Slovenia. 418 members of this community live outside the ethnically mixed area, which represents 18.5

per cent of all persons who declared themselves as members of the Italian national community.

In the last census in 2002, 6,243 persons declared themselves as members of the Hungarian national community, which means that the Hungarians living in the Republic of Slovenia represent 0.31 per cent of the total population in the Republic of Slovenia. 7,713 persons stated the Hungarian language as their mother tongue. Out of 6.243 persons declaring themselves as Hungarians, 5,212 members reside on the ethnically mixed area in five municipalities in the Prekmurje region (Lendava, Dobrovnik, Hodoš, Šalovci, and Moravske Toplice), which represents 83.5 per cent of all persons who declared themselves as Hungarians in the Republic of Slovenia. 1,031 members of this community live outside the ethnically mixed area, which represents 16.5 per cent of all persons who declared themselves as members of the Hungarian national community.

Special rights of national minorities

According to the Constitution of the Republic of Slovenia, the autochthonous Italian and Hungarian national communities shall be guaranteed special rights in the field of education and schooling and in the field of mass media and publishing, they have the right to use their national symbols, the right of political participation as well as the right to establish organisations and to foster contacts with the wider Italian and Hungarian communities living outside Slovenia.

The aim of the educational and cultural policy of Slovenia is to achieve the respect of human rights and common understanding of different national and ethnic groups living in Slovenia. Beside this general goal reflected in the concept of cultural pluralism, there are special measures and programmes for the implementation of the special rights for national minorities, living on nationally mixed territories.

In the ethnically mixed area – in Prekmurje and Slovene Istria due to different historical circumstances and socio demographic conditions, there are two models of bilingual education practiced. The bilingual education in the ethnically mixed area has been introduced in Slovenia in the early sixties of the last century and has been constantly developed and improved by research, theory and policy measures.

The Act on Special Rights of the Italian and Hungarian National Communities in the Field of Education (Official Gazette of the Republic of Slovenia, No. 35/01 and 102/07) prescribes implementation of these rights. In nationally mixed areas where the Hungarian minority resides

(in the Prekmurje region) bilingual education is compulsory at the primary school level for all pupils regardless of their nationality. During all lessons both languages are used. Preparatory schools and preschool education in nationally mixed areas are also bilingual. At the secondary school level, bilingual education is provided at the bilingual secondary school in Lendava. Outside the nationally mixed areas, learning of the Hungarian language by pupils is optional. There is a Chair of the Hungarian Language and Literature at the Maribor Pedagogical Faculty.

In the nationally mixed areas where the Italian national minority resides (the Coastal area) classes and preschool education are conducted in the Italian language in special schools and kindergartens with Italian as the teaching language. It is compulsory for pupils in these schools and kindergartens to learn Slovene, and for pupils in Slovene schools in the nationally mixed areas (the Coastal area) to learn Italian. The knowledge of both languages in the region is especially important for mutual respect and promotion of the atmosphere of understanding and coexistence among all inhabitants on nationally mixed areas.

In the nationally mixed areas on the Coast, there are three secondary schools with Italian as the teaching language. There is a Department of the Pedagogical Faculty for the Italian Language and Literature in Koper and the Chair of the Italian Language and Literature at the University of Ljubljana.

The Constitution of the Republic of Slovenia stipulates that the State of Slovenia “shall give financial support and encouragement to the implementation of these rights”, which means that the activities of bilingual education or education in the language of the Italian ethnic community, bilingual functioning of authorities in nationally mixed areas, cultural activities etc. are financed from the State budget.

The two national communities are directly represented in the representative bodies of the local self-government and in the National Assembly. A special Commission on national Communities is active within the National Assembly, which is alternately presided over by the Deputies of Italian and Hungarian national communities. Laws and other legislative enactments which exclusively affect the implementation of some of the special rights of the national community cannot be enacted without the consent of the national community or national communities affected.

Both national minorities in Slovenia have newspapers and radio and television programme in their own languages. In the Coastal area there

is a special regional Radio and Television Centre Koper/Capodistria, which broadcasts in the Italian language. A radio programme is broadcasting in the Italian language fourteen hours a day, and the Television Koper/Capodistria broadcasts in the Italian language ten hours a day.

According to the agreement between Slovenia and Croatia, the publishing house EDIT in Reka (Croatia) issues newspapers and periodicals for the needs of the Italian minority in Slovenia and the Italian minority in Croatia (La Voce del popolo, Panorama, literary magazine La Battana and newspaper for children Arcobaleno).

A special TV and radio programme for the Hungarian national minority is prepared in Lendava within the framework of the Maribor regional programme. A radio programme in the Hungarian language is broadcasting seven hours a day. A TV programme Hidak/Mostovi (Bridges) is broadcast twice a month, summarising the most important events from the life of the national minority. This programme is also broadcast on the National Television. The Hungarian national minority issues a weekly Nepujsag.

Members of the Italian and Hungarian national minority establish self-governing national communities in the areas where they form autochthonous population (Law on Self-Governing National Communities, Official Gazette 65/94). These communities are concerned with the exercise of special rights of national minorities and inter alia establish organisations and public institutions in the field of education, and regularly follow and encourage the development of education for members of national minorities. They co-operate in planning and organising the work in the field of education and in preparing the relevant programmes in accordance with the statute. Financial resources for the operating of the municipal self-governing national communities are provided from the municipal budget and the resources for the functioning of the Italian and Hungarian self-governing communities in the Republic of Slovenia from the budget of the Republic of Slovenia.

In the concern for the preservation and development of the language of national minorities, self-governing national communities in Slovenia play a significant role. In addition to the tasks performed within the framework of the educational process, the maintenance of contacts with their own national and, within this framework, organising additional education of teachers, summer schools, exchanges and scholarships also contribute to preserving and developing the language. The representatives of self-

governing national communities also co-operate in the preparation of interstate agreements with the neighbouring countries relating to the situation of national communities and the protection of their rights.

Law on Local Self-government (Off.Gaz.No.72/93, 57/94) ensures that in the nationally mixed area each national community shall have at least one representative in the municipal council. If municipal bodies decide on the issues related to the implementation of the special rights of national communities, they must acquire the prior opinion of the self-governing national community.

Legal status and special rights of Roma community

The Roma community is an ethnic community or minority which has specific ethnic characteristics (language, culture and other ethnic features). The legal basis for regulating the protection of the Romany community by law is provided in Article 65 of the Constitution of the Republic of Slovenia, which stipulates that "the status and special rights of the Romany community living in Slovenia shall be regulated by law". The Government of the Republic of Slovenia adopted a comprehensive National Programme for Roma 2017- 2021, which is aimed at improving the situation of the Roma, and comprises activities of various governmental bodies in this area. The Programme covers the activities of various ministries and government bodies for the regulation of housing conditions, education, employment, political participation and culture. Major priorities in the improvement of the situation of Roma are primarily directed towards the goals of social integration and elimination of prejudices and intolerance against Roma, which are expressed in everyday life.

The Constitution of the Republic of Slovenia deals with the special rights of the Roma community in the Chapter on human rights and fundamental freedoms. Compared with the constitutional arrangements of status and special rights of the Italian and Hungarian ethnic communities, which are enumerated in Article 64 of the Constitution, the provision is modest, since it does not provide a list of collective and individual rights of the Roma community and its members. The provisions on the legal protection and integration of Roma are included in specific laws relating to education, culture, media, political participation etc². Changes and amendments to the Local Government Act 2002 regulate the political participation of the Roma community at

² Legal acts are available on the web: <http://www.dz-rs.si> (23.2.2018)

the local level and guarantee the right of members of the Roma community to have at least one representative in the municipal council in municipalities where Roma traditionally live (Act amending the Law on local Self-Government, Official Gazette no. 51/2002). This Act in Article 101a states that the municipalities of Beltinci, Cankova, Črenšovci, Črnomelj, Dobrovnik, Grosuplje, Kočevje, Krško, Kuzma, Lendava, Metlika, Murska Sobota, Novo Mesto, Puconci, Rogašovci, Semič, Šentjernej, Tišina, Trebnje and Turnišče are obliged to ensure the right of the Roma communities to one representative in the municipal council.

The legal status of the Roma community in general is defined in the Roma Community Act (2007), which prescribes the tasks and obligations of state authorities and local communities in the implementation and financing of special rights of the Roma community, and regulates the organization of the Roma community at the national and local levels³. The second article of this Act states that members of the Roma community have additional, special rights defined by law, because of the specific situation of the Roma community in Slovenia. It is needed for successful integration into Slovenian society in addition to the rights and obligations that belong to all citizens of the Republic of Slovenia. Based on this Act, a Council of the Roma community in Slovenia was established as a representative body of the Roma in Slovenia.

The Government of the Republic of Slovenia has established an intergovernmental committee for improvement of the position of Roma. In the 2002 census, 3,246 inhabitants declared themselves as Roma and 3,834 stated the Romany language as their mother tongue. In the 1991 census, 2,259 inhabitants declared themselves as Roma and 2,752 stated the Romany language as their mother tongue.

Based on education legislation (Organisation and Financing of Education Act (Ur. l. RS, No. 115/03 – official consolidated text), Pre-school Institutions Act (Ur. l. RS, No. 113/03 – official consolidated text), Elementary School Act (Ur. l. RS, No. 12/96, 33/97 and 59/01)), the Council of Experts for General Education adopted in 2000 the Instructions for implementing the programme of the nine-year elementary schools for the Roma pupils, and in 2002 the appendix to the pre-school institution curriculum for the work with Roma children.

Pre-school Roma children are included in 40 pre-school institutions in Slovenia, mainly in Dolenjsko, Posavje, Bela Krajina, Štajersko and Prekmurje. They are included in Slovenian pre-school institutions in

³ Official Gazette no. 33/2007.

three different ways. Most of them are integrated into ordinary groups, and the minority in special Romany groups consisting of Roma children only, and in Romany pre-school institutions. They are integrated into pre-school institutions in the immediate vicinity of their settlements or in the settlements themselves. In case of greater distance, pre-school institutions organise transport and provide qualified kindergarten staff to accompany children, or in some cases a child from an elementary school upper class. In some cases, children are taken from the Romany settlements to pre-school institutions or schools by their parents.

Within the Government of the Republic of Slovenia, a special Governmental Office for Nationalities coordinates and ensures the implementation of the constitutional obligations towards the national communities and Roma ethnic community in Slovenia⁴.

Cultural, historical and identity features of national minorities in Slovenia are included in the curricula in the obligatory primary school on the entire territory of Slovenia within the framework of compulsory school subjects: elementary science, language, geography, and history. At the secondary school level, it is including in the geography, language and literature, history, and sociology classes.

New minorities or migrants?

Demographic data reflect gradual decreasing of the share of declared Slovenes in the population of the Republic of Slovenia in the results of Population Censuses after the WWII.

The most numerous group among “other ethnic groups”, who are not recognized as national minorities, are immigrants from the former Yugoslav republics (namely Albanians, Bosnians, Croats, Montenegrins, Muslims, Serbs) who settled predominantly in larger industrial centres following World War II during the existence of the common state. The data from the Population Census in 2002 show that 38,964 people in Slovenia declared as Serbs, 35,642 Croats, 32,009 Bosniaks and Muslims, 6186 Albanians, 3972 Macedonians, and 2667 Montenegrins.

By the end of the last decade of the 20th century there were no radical changes in the field of regulating the national minority issue in the RS. The autochthonous national communities, together with the Roma, continued to be provided by a relatively wide-ranging care of the state, and for other members of national minorities, and among them the most

⁴ Legal acts and documents on the special rights on Italian and Hungarian national minorities and Roma community are available at the web site of the Office for Nationalities: <http://www.un.gov.si/> (23.2.2018)

numerous members of the nations from other parts of the former Yugoslavia, the notion "immigrants" was applied more and more frequent in common use (Kržišnik- Bukić, 2014: 133).

In some programmes of the Ministry of Culture of the Republic of Slovenia they are still treated as "Migrants", regardless of the fact that majority of them are citizens of the Republic of Slovenia.

At present, members of other ethnic groups than Italian and Hungarian national communities and Roma community, do not have the status of a national minority in the sense of collective holders of rights. The common opinion that Slovenia is the state of the Slovenian nation (ethnic Slovenes) and two traditional minorities, Italian and Hungarian, which are entitled to the scope of compensatory minority rights is still present (Komac, 2014:106).

In academic discourse and expert circles members of the nations from other parts of the former Yugoslavia are defined as "new" minorities⁵. They have, in compliance with the Constitution, guaranteed individual rights to preserve their national identity, to foster their own culture and use their own language and script. According to the Elementary School Act and in compliance with bilateral international treaties, supplementary classes in the mother tongue and culture are organised for the children of Slovene citizens living in Slovenia, whose mother tongue is not Slovenian.

The field of education of the children of migrants comprises the inclusion of those children in the Slovene educational system and the right of the children of migrants to supplementary lessons in their mother tongue. Their rights in the field of education are regulated under provisions of the Elementary School Act (Official Gazette RS No. 12/96, 33/97 and 59/01). In compliance with international treaties, classes in the mother tongue and culture are organised for the children, Slovene citizens living in Slovenia, whose mother tongue is not Slovene. Children who are foreign citizens or stateless persons living in the Republic of Slovenia are, pursuant to Article 10 of the Elementary School Act, entitled to

⁵ The term migrants in Slovenia covers a diverse group of immigrants who are either economic migrants, applicants for international protection, or refugees and other persons under international protection. It includes different categories: migrants from the former Yugoslavia, who came to Slovenia during of the existence of the common state, refugees and migrants from third countries who arrived in Slovenia after the outbreak of the migrant crisis in 2015.

compulsory schooling under the same conditions as citizens of the Republic of Slovenia.

The system of courses in the mother tongue for the children of migrants is based on the provisions of the Elementary School Act and on the long experience of additional courses in the Slovene language in Western European countries. Children and their parents decide on such courses on a voluntary basis. The courses are held once a week from 3 to 5 hours. Native speakers teach such classes⁶.

Open issues

Policy towards protection of national minorities in Slovenia includes different levels of protection containing individual and collective rights. The Constitution of the Republic of Slovenia⁷ guarantees equality before the law to everyone⁸. According to the Criminal Code of the Republic of Slovenia denying of this right is the criminal offence of infringing equality. According to the interpretation given by Constitutional Court allows a legislator to extend protection for the two national communities and Roma ethnic community groups and to ensure a special scope of collective rights only for these three groups. In the explanatory note to the decision of the Constitutional Court of the Republic of Slovenia (B.-II, Item 7)⁹ it is stated, inter alia, that constitutional provisions of Article 65 of the Constitution of the Republic of Slovenia “provide the legislator with the authority to guarantee, by law, to the Roma community as a special ethnic community living in Slovenia not only universal rights to which everybody is entitled but also special rights. In regulating the special status and special rights of the Roma community, the legislator is not limited by the principle of equality – which, in regulating human rights and fundamental freedoms, forbids, under Article 14, paragraph 1 of the Constitution, any discrimination based on national origin, race or any other circumstance. The constitutional authority provided for in Article 65 permits the legislator to guarantee to the Roma community and its members special (additional) protection which is in a legal theory known as positive discrimination or positive protection”.

⁶ http://www.mzs.si/slo/ministrstvo/mednarodno_solstvo/priseljenci.asp (23.2.2018)

⁷ Constitution of the Republic of Slovenia, Časopisni zavod Uradni list Republike Slovenije, Ljubljana 1992.

⁸ Article 14: In Slovenia everyone shall be guaranteed equal human rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, political or other beliefs, financial status, birth, education, social status or whatever other personal circumstance.

⁹ Ruling No. U-I-416/98-38 of 22 March 2001.

In the last two decades, many proposals have already been prepared for inclusion in the Constitution of a special new amendment: Article 64 a, which would include a list of groups of members of the former Yugoslav nations (apart Slovenians) living in Slovenia, as bearers of collective rights. In February 2018, a proposal was drafted on the Act on the Implementation of Collective Cultural Rights of National Communities of the Nations of the Former Socialist Federal Republic of Yugoslavia in the Republic of Slovenia, which presumes also the establishment of a new governmental office within the Ministry of Culture of the Republic of Slovenia¹⁰. In the first discussion, the proposed draft received support in the Slovenian Parliament and it is prepared for the procedure of further consideration.

Concluding remarks

This paper provided a short outline of the most important points of the legal regulation of the protection of national minorities in Slovenia, particularly in the field of implementation of special minority rights. Legal regulation and implementation are doubtless strongly influenced by diverse factors deriving from concrete political, geographical, historical, economic and other circumstances.

The respect for the principles of “positive protection” for national minorities and Roma community as political commitments to the mutual respect and understanding have already being carried out in Slovenia as a proclaimed approach regarding protection of two national minorities and Roma. Such approach is not a new one in Slovenia. The concept of special rights of the autochthonous Italian and Hungarian minorities was introduced over forty years ago. Further improvements of the existing level of protection of national minorities in Slovenia could be sought only in the balanced relation between the individual and collective aspects of minority rights in such a form which could satisfy wishes and demands of all minorities and the majority population.

An integral strategy of the Republic of Slovenia in the shaping of models of protection of members of “new” minorities is only being created. The first step in the field of becoming acquainted with the experiences of other states, particularly countries of origin, and international standards has already been made. The Strategy for learning of Slovene language as the second language was adopted. However, a comprehensive

¹⁰ Draft is available at the: <https://skupnostobcin.si/2018/02/predlog-zakona-ouresnicevanju-kolektivnih-kulturnih-pravic-narodnih-skupnosti-pripadnikov-narodovnekdanje-sfrj/> (23.2.2018)

approach at the national level is still missing and mother tongue instruction for users of these languages depend mostly on bilateral agreements with states of origin.

The situation is gradually improving in terms of a greater understanding of cultural and other differences which exist in Slovenia because of traditional presence and increased economical immigration. To preserve the cultural identity of all minorities two programmes are being carried out within the Ministry of Culture of the Republic of Slovenia: integration and special programmes intended for financing cultural activities of national communities, of the Roma community, other minority communities and immigrants in the Republic of Slovenia.

Within the frame of implementation of some provisions of the COE Framework Convention for protection of National Minorities a door also for the development of the protection of all other minority groups in Slovenia is open. Monitoring bodies within Council of Europe/COE recommend adoption of more flexible approach including measures for their participation in public life and promotion and maintenance of their identity, culture and language as cultural wealth of society at whole.

Resources

Constitution of the Republic of Slovenia, Časopisni zavod Uradni list Republike Slovenije, Ljubljana 1992.

Klopčič, Vera, & Novak-Lukanovič, Sonja (2004): Report on minority education in Slovenia : Analytical Report PHARE RAXEN_CC Minority Education. Vienna: Inštitut za narodnostna vprašanja, European monitoring centre on racism and xenophobia.

Komac, Miran (2014): Varstvo »novih« narodnih manjšin (skupnosti): Kržišnik – Bukić, Vera (ed.): Kdo so narodne manjšine v Sloveniji. Zveza zvez kulturnih društev narodov in narodnosti nekdanje SFRJ v Sloveniji. Ljubljana: pp.: 103- 129.

Kržišnik- Bukić, Vera (2014): Znanstvena izhodišča za definicijo »narodne manjšine v Republiki Sloveniji« in problem strokovnih razhajanj : Kržišnik - Bukić, Vera (eds.), & Josipovič, Damir (eds.) : Zgodovinski, politološki, pravni in kulturološki okvir za definicijo narodne manjšine v Republiki Sloveniji. Ljubljana: Inštitut za narodnostna vprašanja: pp.: 127- 167.

Rapid Reports, No. 93/2003, Results of the Population Census 2002, Statistical Office of the Republic of Slovenia.

Internet sources:

<http://www.dz-rs.si> (23.2.2018)

www.un.gov.si (23.2.2018)

<https://skupnostobcin.si/2018/02/predlog-zakona-o-uresnicevanju-kolektivnih-kulturnih-pravic-narodnih-skupnosti-pripadnikov-narodov-nekdanje-sfrj/> (23.2.2018)