



The Use of Mother Tongue in Public Administration

A Case Study of Serbia

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Abstract

Citizens are primarily in contact with the state through public administration, and due to the changing and expanding role of the state, this contact is becoming more and more frequent and complex. An important element of the regulation of the citizen–state relationship is the definition of the language of their communication, respecting, on the one hand, the freedom of language use and the prohibition of discrimination, and on the other hand, the identity of the state-forming nation and the principle of efficiency. Thanks to its decades-long tradition of multilingual public administration, Serbia ensures relatively broad rights to use mother tongue before public administration bodies. However, practice does not catch up with the law. The paper’s goal is to present the discrepancies between the *de iure* and *de facto* situation in the field of official language use in Serbia’s multilevel public administration, and to suggest a paradigm shift for further improvement.

Keywords

language rights, public administration, Serbia, national minority

1 Introduction

In the last century, but especially in recent decades, the role of the state in the lives of citizens has changed significantly. It no longer only embodies the power that legitimately exercises violence, but it has also developed into the largest service provider (Indahsari & Raharja, 2020). Due to this, the information and communication links between the state and citizens have become more intense and complex. Citizens turn to various administrative bodies on a daily basis, and they do this in the language they know and which they are allowed and required to use. Because in the age of free movement, creating ethnically homogenous nation-states, speaking a single common language is more like a utopia (Salzborn, 2021, 76), the state must create rules and provide conditions for the new multilingual reality.

One or more languages used by the government in legislation, judiciary, and administration to conduct official, day-to-day business are usually referred to as official language(s); unlike

national language that is a bearer of collective cultural-national identity, shared in common among the people (Choudhry & Houlihan, 2021, 6). In an ideal situation, the official and national languages are the same, i.e. the state operates in the language of the citizens who make up the national majority of the country's population. But, as we mentioned, such a 'clear ethnic/linguistic situation' does not really exist today. It is a completely viable formula for ethnic communities different from the national majority to form the majority at the local and regional level, and as a result, they can make a legitimate claim to the country that they use their own minority language in communication with the state. However, "the existence of a »real need« is to be assessed by the State on the basis of objective criteria" (Council of Europe, 1995, Point 65).

The Republic of Serbia, the narrower subject of the present study, is a good research topic for several reasons: (1) multilingual public administration has decades of tradition, which was already established in socialist Yugoslavia (Hock, 1972, 65–69); (2) after the dissolution of the federal state the former Yugoslav nations have become national minorities, but their mother tongue is very similar to the first official language of the country, the Serbian language, and this raises not a single practical problem in everyday administration; (3) 20% of the population is not of Serbian ethnicity, and 10% did not indicate Serbian as mother tongue at the last census (2022); (4) the country's administration is divided into three levels (state administration, administration of the Autonomous Province of Vojvodina and local administration), each with different language rules; (5) and as a country on the path of European integration, Serbia is doing everything to comply with recommendations of monitoring bodies to improve its international reputation, however, as a result, it has to face more and more challenges in practice.

The goal of this paper is to provide a comprehensive picture of the linguistic rights in the public administration of Serbia, from a critical perspective. Namely, the public administration operating in minority languages, especially at the local level, is not the result of much-welcomed legislation (Committee of Experts, 2023, Point 41), but rather the consequence of factual circumstances such as the territorial concentration and size of a minority community, the traditions of institutional multilingualism, the use of e-administration services, the local political conditions and the influence of minority politicians etc. Also, different rules apply to different levels of public administration, which makes the already complex system even more 'opaque'.

After briefly presenting the functioning of the multilevel public administration in Serbia, the study describes, in details, the linguistic rights of national minorities in the country, from the international undertakings through the national laws to local rules, pointing out both legal deficiencies and practical difficulties. Finally, in the concluding remarks the paper wishes to contribute to the harmonization of the *de jure* and *de facto* situation with legal, organizational, and technical reform proposals.

2 Multilevel governance in Serbia: a short overview

The Republic of Serbia as the state of the Serbian people and all citizens who live in it¹ is unitary, its legal order is unified, but the state power is limited by the right of citizens to provincial autonomy and local self-government (Constitution of the Republic of Serbia, Art. 12,

¹ Constitution of the Republic of Serbia [Ustav Republike Srbije], Official Gazette of the RS, No. 98/2006, modified in No. 115/2021, Art. 1.

Para. 1). Although in its opinion on the Serbian Constitution the Venice Commission welcome the establishment of the right to provincial autonomy and local self-government, and used it in several cases in a human rights context (Venice Commission, 2007, Point 13), according to the decision of the Serbian Constitutional Court on the constitutionality of the Vojvodina Competence Act² the right to provincial autonomy is not a human right, but a constitutional principle which, in the most general way, obliges the legislator to enact laws strengthening and developing territorial decentralization. It is an expression of citizens' sovereignty that citizens realize directly or indirectly, through the bodies of the autonomous province.³ The right to local self-government has similar content.⁴

According to the Serbian Constitution currently there are two autonomous provinces in the country: the Autonomous Province of Vojvodina, and the Autonomous Province of Kosovo and Metohija which enjoys substantial autonomy in accordance with special constitutional law (Constitution of the Republic of Serbia, Art. 182, Para. 2). However, in the light of the relationship between Kosovo and Serbia, the parts of this paper concerning autonomous provinces (or regional administration) refer only to the AP Vojvodina. The Constitution does not exclude the creation of new provinces, but so far, no such political will has been shown.

Vojvodina has its directly elected Provincial Assembly, as a quasi-legislative body, and a Provincial Government, as an executive body and administration composed of provincial secretaries for various social fields. There are no provincial courts, as there were in the former Yugoslavia, nor does Vojvodina participate in any way in the administration of justice, which is uniform in the country. Although the autonomous province does not have legislative power, it may enact its own rules (Provincial Assembly decisions as bylaws) on matters of special provincial interests, detailed by the Vojvodina Competence Act, in fields enumerated by the Constitution (Art. 183). At first sight this normative competence may seem sufficient for a territorial autonomy, but the Provincial Assembly is certainly limited by sectoral laws of the state which almost completely empty the meaning of provincial autonomy. Instead of norm-making the province primarily deals with implementation and execution of state laws, distributes funds, and manages its own public services and other organizations (like, agencies, companies) (Korhecz & Beretka, 2018, 113). Due to the lack of competences, especially in conducting various proceedings, the 'client turnover' is also low as a result of which communication with citizens, and the language of this communication, is a secondary issue.

Vojvodina's only authority, which is more or less independent of state laws, concerns the creation and operation of its own organization, even though it does not include regulation of labor rights of provincial officials⁵ and the system of power sharing (namely, the relevant constitutional provisions indicate system of unified power at both local and regional levels).⁶ Also, Vojvodina may regulate languages that are official in the work of provincial bodies and organizations

² The full title of the law in English and Serbian: Law on Determining the Jurisdiction of the Autonomous Province of Vojvodina [Zakon o utvrđivanju nadležnosti Autonomne pokrajine Vojvodine], Official Gazette of the RS, No. 99/2009, modified in Nos. 67/2012 – CC decision, 18/2020, 111/2021.

³ Decision of the Constitutional Court of Serbia, No. IUz-353/2009 of July 10, 2012, Official Gazette of the RS, No. 67/12.

⁴ Law on Local Self-Government [Zakon o lokalnoj samoupravi], Official Gazette of the RS, No. 129/2007, modified in Nos. 83/2014, 101/2016, 47/2018, 111/2021, Art. 2.

⁵ Decision of the Constitutional Court of Serbia, No. IUa-2/2009 of June 13, 2012.

⁶ Constitution of the Republic of Serbia, Art. 180, Para. 1.

established by the autonomous province, and that are besides Serbian, the Hungarian, Croatian, Romanian, Ruthenian and Slovakian language;⁷ but this authorization does not mean independent regulation of various aspects of official language use outside the provincial institutional system⁸ The province cannot create new rights or obligations, nor regulate certain dimensions of official language use in more detail. The provincial bodies are obliged to apply the Law on the Official Use of Languages and Scripts in the above mentioned languages.

Although it is called an autonomous region, in practice it does not operate autonomously at all. This determination was once justified by its specific multiethnic population, multilingualism and religious traditions, which appear as special values of Vojvodina in its statute up today,⁹ but nowadays it functions as a kind of asymmetrical administrative middle level and not as an independent political entity. It is true that the Constitution of Serbia guarantees power to regulate additional rights to national minorities living in the territory of the province (Art. 79, Para. 2) but according to the interpretation of the Constitutional Court this competence does not apply to language rights that can be exercised in the field of official communication, which is otherwise one of the crucial elements of territorial autonomy (Benedikter, 2009, 46).

As far as the local level is concerned, Serbia is divided into 145 municipalities (*opština*) and 29 cities (*grad*), including the capital city of Belgrade, which form the basic units of local self-government.¹⁰ The territory of a local self-government is composed of a town (that is the seat of the municipality) and surrounding villages, and usually bears the name of the seat town. Cities and municipalities have a similar (almost the same) internal organization (local assembly, local council, local administration and mayor), competences and means of finances. There is no hierarchical relationship between them, they are monotype and single-tier (Vlatković & Golić, 2021, 193).

Serbia ratified the European Charter of Local Self-Government on 6 September 2007, and ten years after ratification the Congress of Local and Regional Authorities (2017) noted with satisfaction “the existing good practices in terms of responding to the specific needs of a culturally diverse population and of protecting minority languages”. However, this statement primarily refers to the municipalities in the AP Vojvodina (Advisory Committee, 2019, 1). Although in Serbia the regional (provincial) and local levels are independent of each other, the local governments are not subordinate to the autonomous province in any sense, they have to adopt their acts in accordance with state laws, and not with provincial rules, the positive impact of the multiethnic and multilingual Vojvodina is undoubtedly felt in those municipalities that are located on the territory of the province.

The bodies of state administration, ministries, bodies within the ministries (e.g. Tax Administration, Customs Administration, Republic Water Directorate, Military Intelligence Agency, Labor Inspectorate) and special organizations (e.g. Statistical Office of the Republic of Serbia, Institute for Social Insurance, Republic Geodetic Authority),¹¹ operate throughout Serbia

⁷ Statute of the AP Vojvodina [Statut Autonomne pokrajine Vojvodine], Official List of the AP Vojvodina, No. 20/2014, Art. 24, Para. 1.

⁸ Decision of the Constitutional Court of Serbia, No. IUo-360/2009 of December 5, 2013, Official Gazette of the RS, No. 61/14.

⁹ Statute of the AP Vojvodina, Art. 7.

¹⁰ Law on Territorial Organization of the Republic of Serbia [Zakon o teritorijalnoj organizaciji Republike Srbije], Official Gazette of the RS, No. 129/2007, modified in Nos. 18/2016, 47/2018, 9/2020.

¹¹ Law on Ministries [Zakon o ministarstvima], Official Gazette of the RS, No. 128/2020, modified in Nos. 116/2022, 92/2023.

and are headquartered in Belgrade. A significant part of their tasks, however, cannot be performed efficiently and qualitatively in a centralized manner. In addition to administrative decentralization, which means the delegation of administrative tasks to lower levels (local, regional), tasks of state administration are performed in Serbia by organizational units of state administrative bodies, as well, located in the so-called administrative districts (regional/local centers of state administration). This kind of administrative deconcentration does not mean establishment of new entities; each state administrative body decides for itself whether it wants to create an organizational unit outside its seat (Belgrade) or not. These units do not have any special status or independence, they remain part of the state administrative body in all respects (control, financing, instructions) (Korhecz & Beretka, 2013, 19–20). On the other hand, although we are still talking about central bodies, they must respect the linguistic legal rules of the municipalities in whose area they perform their work as ‘outsourced departments’. In this regard, there is no difference between local bodies and organizations, and organizational units of state administrative bodies located in municipalities when it comes to the use of minority languages in official communication.

3 Language rights in the Serbian public administration

3.1 Legal-political-social context

The Serbian Constitution designates the Serbian language together with the Cyrillic script as the official language (language in official use) in Serbia. Official use of other languages and scripts (including the use of the Latin script along Serbian) is subject to law (Art. 10). Therefore, there is no first or national language in Serbia, and, although the Serbian language is the number one official language as a constitutional value, i.e. ‘as a means and common good of national culture’,¹² other languages can also be used officially. By ‘other languages’, the lawmaker primarily means languages of national minorities, considering that the Law on the Official Use of Languages and Scripts ensures special rights for national minorities, regarding the official use of their mother tongue, and not for any linguistic/ethnic communities in Serbia.

However, Serbian legislation does not regulate which community is considered a national minority by name (Đurić, 2014b, 19). In fact, any community that meets the very broad legal definition of national minorities¹³ can become a national minority in Serbia and enjoy both individual and collective rights. The latter means the establishment of their own ethnic self-government, national minority council that exercises public authorizations in certain cultural fields.¹⁴ Based on this, it logically follows that those communities that could elect their own national minority councils are considered national minorities in the country.¹⁵ As of today,

¹² The Law on the Use of the Serbian Language in Public Life and the Protection and Preservation of the Cyrillic Script [Zakon o upotrebi srpskog jezika u javnom životu i zaštiti i očuvanju ćirilčkog pisma], Official Gazette of the RS, No. 89/2021, Art. 2.

¹³ Law on the Protection of Rights and Freedoms of National Minorities [Zakon o zaštiti prava i sloboda nacionalnih manjina], Official List of the Federal Republic of Yugoslavia, No. 11/2002, modified in Official List of SCG, No. 1/2003, and Official Gazette of the RS, Nos. 72/2009, 97/2013, 47/2018, Art. 2, Para. 1.

¹⁴ Constitution of the Republic of Serbia, Art. 75, Para. 3.

¹⁵ Ministry of Human and Minority Rights, and Social Dialogue, Registry of national councils of national minorities, online: <https://tinyurl.com/radk4k7w>

these are as follows: Albanians, Ashkalis, Bosniaks, Bulgarians, Bunjevacs, Czechs, Croatians, Egyptians, Germans, Gorani, Greeks, Hungarians, Macedonians, Montenegrins, Polish, Romas, Romanians, Ruthenians, Russians, Slovaks, Slovenians, Ukrainians and Vlachs.¹⁶ At the last census, most of the country's citizens (80.64%) indicated being of Serbian nationality. This group is followed by Hungarians (2.77%), Bosniaks (2.31%), and the Roma (1.98%). Five percent is shared by other ethnic groups, including national minorities and others (Republički zavod za statistiku, 2023).

Although ethnic proportions are particularly important in terms of language rights, data on the mother tongue must also be taken into account when creating language strategies and rules (Vukašinić, 2013, 55). This is even more true in the case of Serbia where often happens that linguistic and ethnic identity do not necessarily correspond to each other (Đurić, 2014a, 107). Besides ethnically mixed marriages or linguistic assimilation the reason for this is also the kinship/similarity of South Slavic languages (recognized as national minority languages in Serbia) and the Serbian, as the first official language. E.g. 88% of Montenegrins, 58,7% of Slovenians and 52% of Croatians indicated Serbian as their mother tongue.¹⁷

Table 1: Statistical data on ethnicity and mother tongue in Serbia¹⁸

	Ethnicity			Mother tongue	
	No.	%		No.	%
Serbian	5,360,239	80.64	Serbian	5,607,558	84.36
Albanian	61,687	0.92	Albanian	65,475	0.98
Ashkali	1,307	0.02	Ashkali	No data	
Bosniak	153,801	2.31	Bosniak	145,329	2.18
Bulgarian	12,918	0.19	Bulgarian	7,939	0.12
Bunjevac	11,104	0.16	Bunjevac	3,319	0.05
Croatian	39,107	0.58	Croatian	12,048	1.80

¹⁶ According to one opinion, the Ashkalis and the Balkan Egyptians are descendants of the Albanianized Roma from Kosovo, but Serbia recognized them as separate national minorities of Islamic religion and Albanian mother tongue, who live(d) primarily in the southern regions of the country, primarily in Kosovo. The Gorani are a Slavic ethnic group inhabiting the Gora region located between Kosovo, Albania, and North Macedonia. They speak a transitional South Slavic dialect, called Goranski, and most of them are Sunni Islam. The Vlachs are a national minority living in eastern Serbia, mainly within the Timok Valley. Their culture has preserved archaic and ancient elements in matters such as language or customs. Although the standardization of the Vlach language is still in progress, they cannot be considered a Romanian-speaking group, regardless of the many similarities between the two peoples and their languages.

¹⁷ An ongoing question both in politics and linguistics is whether Bosniaks, Croats, Serbs and Montenegrins speak one common language or several different languages. According to one view, the common language was associated with the creation of the common state of Yugoslavia, and it was in some way imposed in it. So, after the dissolution of the common state, Bosniaks, Croats, Serbs and Montenegrins that now constitute different nations all deserve their own language. On the other hand, from a linguistic point of view, in this special case there is only one common polycentric standard language (a language spoken by several peoples and within which there are differences, so one can recognize where the speaker comes from) (Kordić, 2016).

¹⁸ In addition to the Serbian nation, the table contains data on those national minorities that have elected a national minority council in Serbia.

Czech	1,317	0.02	Czech	No data	
Egyptian	1,484	0.02	Egyptian	No data	
German	2,573	0.03	German	1,389	0.02
Goran	7,700	0.11	Goran	No data	
Greek	690	0.01	Greek	No data	
Hungarian	184,442	2.77	Hungarian	170,875	2.57
Macedonian	14,767	0.22	Macedonian	8,375	0.12
Montenegrin	20,238	0.30	Montenegrin	1,981	0.03
Polish	615	0.009	Polish	No data	
Roma	131,936	1.98	Roma	79,687	1.20
Romanian	23,044	0.34	Romanian	21,477	0.32
Russian	10,486	0.15	Russian	11,255	0.17
Ruthenian	11,483	0.17	Ruthenian	8,725	0.13
Slovakian	41,730	0.62	Slovakian	38,584	0.58
Slovenian	2,829	0.04	Slovenian	1,302	0.02
Ukrainian	3,969	0.05	Ukrainian	1,527	0.02
Vlach	21,013	0.31	Vlach	23,216	0.35
Total population	6,647,003	100	Total population	6,647,003	100

Source: The table was compiled by the author based on data from the Statistical Office of Serbia and the Republican Electoral Commission

Just as national minorities do not have an officially accepted list, neither do national minority languages; but in the case of most national minorities in Serbia, there is also a separate minority language. The problem is primarily caused by South Slavic languages and their variations: for which it logically arises whether, for example, translation is necessary or even available (Đorđević, 2022, 163).

The Constitution guarantees to persons belonging to national minorities right to use their language and script, in accordance with law. Whether this right refers to private, public or even official use of mother tongue, is not clear; even though it can be assumed that all three dimensions of language use are provided, as far as the same constitutional provision ensures the highest standard of language rights in official communication, the right to conduct official proceedings in one's own language. "In areas where national minorities make up a significant population, state authorities, organizations entrusted with public powers, authorities of autonomous provinces and municipalities conduct proceedings in their language as well," in accordance with law.¹⁹ The relevant framework law is the Law on the Official Use of Languages and Scripts that apart from the rights enshrined in the Constitution grants additional rights in this field.

The official use of languages (Serbian and national minority languages) means the use of languages in the work of administrative and judicial state authorities, authorities of autonomous provinces, cities and municipalities, public institutions, companies and public services, and other organizations when exercising public powers,²⁰ especially (1) in oral and written communication between authorities, as well as with parties (citizens); (2) conducting official

¹⁹ Constitution of the Republic of Serbia, Art. 79, Para. 1.

²⁰ Law on the Official Use of Languages and Scripts [Zakon o službenoj upotrebi jezika i pisama], Official Gazette of the RS, No. 45/91, modified in Nos. 53/93, 67/93, 48/94, 101/2005, 30/2010, 47/2018, 48/2018, Art. 2.

proceedings; (3) keeping public records; (4) issuance of public documents, as well as other documents that are of interest for the realization of the rights of citizens established by law; (5) and when writing public inscriptions (name of places, public organizations, streets, publication of public information etc.).²¹ Also, the law guarantees limited language rights to those persons belonging to national minorities whose languages have not been introduced into official use at all, or whose language has not been recognized as language of the given official procedure. This kind of linking of ethnic and collective linguistic identity can cause problems, given the already mentioned situation: belonging to a national minority does not necessarily mean that the given person's mother tongue is also the language of the respective national minority.

Persons who do not belong to a national minority (or to the Serbian nation) can use their mother tongue before public authorities, in the public administration, as well, because “unfamiliarity with the language of the proceedings may not be an impediment for the exercise and protection of human and minority rights.”²² However, this constitutional provision requires assistance of a translator, which, of course, does not correspond to the equal official use of national minority languages. It is not clear whether this includes procedures before provincial and local public administrations (Pajvančić, 2009, 259), and whether the translation must be done at the party's expense, given that other provisions of the Constitution guarantee the right to free translation only in court proceedings (Art. 32, Para. 2).

If a national minority makes up at least 15% of the local population according to the most recent census, then its language is introduced into equal official use by the given local government in its statute; however, this equality does not extend to all areas of official language use (Beretka, 2016, 512–513). Since local municipalities did not accomplish this obligation in all cases, the last amendment of the law added a deadline of 90 days from the fulfillment of the conditions.²³ But there is no effective control mechanism or sanctioning system that can be used to put pressure on municipalities that do not respect the law, except perhaps political pressure.

In the Republic of Serbia, in addition to the Serbian language, 12 other languages of national minorities (Albanian, Bosniak, Bulgarian, Bunjevac, Hungarian, Macedonian, Romanian, Ruthenian, Slovak, Croatian, Montenegrin and Czech) are in official use throughout the territory of 42 municipalities and/or cities. In addition, the Vlach and Romani languages are in official use in some settlements (Ministry of Human and Minority Rights and Social Dialogue, 2024). The latter does not mean, however, equal official use of these languages, just posting of public signs (toponyms, public information, instructions etc.) in the given minority language.²⁴

It should also be mentioned that in certain places not only one minority language is in official use, but several. In the city of Plandište, for example, four minority languages (Hungarian, Macedonian, Slovakian, and Romanian) are introduced into equal official use. This poses a serious challenge to the public administration (but also to the courts), since there is no hierarchical difference between the languages of national minorities; they all have the same rights after their mother tongue has been introduced into official use. Another example is Subotica, where the Bunjevac language was introduced into official use in addition to the Hungarian and Croatian languages a few years ago. In Hungary and Croatia, however, it is considered one of the dialects of the Croatian language (Dobos & Tóth, 2011, 4), and as such

²¹ Law on the Official Use of Languages and Scripts, Art. 3.

²² Constitution of the Republic of Serbia, Art. 199, Para. 2.

²³ Law on the Official Use of Languages and Scripts, Art. 11, Para. 2.

²⁴ Law on the Official Use of Languages and Scripts, Art. 11, Para. 5.

is a serious element of the identity debates between Croats and Bunjevacs. In the municipality of Mali Iđoš, the Montenegrin language is officially used, even though a part of the Serbian academic community judged that the separation of the Montenegrin and Serbian languages was primarily the result of a political decision.²⁵ I could cite even more examples, but these are enough to show that Serbia's relatively permissive attitude towards national minority rights, including minority linguistic rights raises serious questions that also affect the practical use of the given languages.

3.2 International undertakings

International law primarily deals with language rights within the judicial system, as part of the right to a fair trial or as a special right of the accused (Mowbray, 2022, 40–41). But in the case of public administration, the state still enjoys wide autonomy to determine the language in which clients can contact it. The two main documents of the Council of Europe in this field, the Framework Convention for the Protection of National Minorities (henceforth: Framework Convention)²⁶ and the European Charter on Regional or Minority Languages (henceforth: European Charter),²⁷ provide a framework for these national/domestic rules, but, regardless of their treaty-nature, this context is more of a guidance, just like the Oslo Recommendations of the OSCE regarding the linguistic rights of national minorities. As the latter states, the Recommendations “provide a *useful reference for the development of State policies and laws* [author's emphasis] which will contribute to an effective implementation of the language rights of persons belonging to national minorities, especially in the public sphere.”²⁸

The Framework Convention mainly contains program-type provisions, the implementation of which in national legislation largely depends on the discretionary assessment of the contracting state; that is, it allows for a fairly flexible interpretation of what members of national minorities are entitled to and how those rights should be implemented by national governments. As Article 10 states, every person belonging to a national minority should have right to use freely and without interference his or her minority language, in private and in public, orally and in writing, that would, among others, include the use of minority language in relations with the administrative authorities. But the practical realization of this provision can be linked to several conditions: if those persons so request and where such a request corresponds to a real need; as far as possible; in areas inhabited by persons belonging to national minorities traditionally or in substantial numbers (Art. 10 Para. 2). “Authorities must thus seek to strike an appropriate balance between the protection of the official language(s) and the linguistic rights of persons belonging to national minorities.” (Advisory Committee, 2012, Point 53) Although the Framework Convention does not specify which level of public administration bodies fall under the scope of the Article 10, the Thematic Commentary refers primarily to local bodies.

Serbia joined the Framework Convention on May 11, 2001. According to the recommendations in the final monitoring cycle, regarding the realization of Article 10 in Serbia, the country was required to take concrete, practical steps in order to “ensure that in all municipalities where the legal requirements are met minority languages are effectively in official use” (Committee

²⁵ Decision of the Committee on Standardization of the Serbia Language, No. 32 of April 30, 2003.

²⁶ Framework Convention for the Protection of National Minorities, ETS 157, February 1, 1995.

²⁷ European Charter on Regional or Minority Languages, ETS 148, November 5, 1992.

²⁸ Oslo Recommendations of the OSCE regarding the linguistic rights of national minorities, Introduction, 1998.

of Ministers, 2021). It means, among others, setting up and operating a data collection on the number of minority languages spoken by civil servants in the state, provincial and local administrations, and obtaining a clear view on the representation of national minorities in the public administration. Although Serbia adopted the law on the register of employees in the public sector and at the users of public funds back in 2015, the register is still incomplete and not being fully applied. Otherwise, it contains data on ethnicity and language skills of employees,²⁹ which would once significantly facilitate cadre policy planning and management in ethnically mixed areas, especially from the perspective of minority language use.

Regardless of the law, the Provincial Secretariat for Education, Regulations, Administration and National Minorities – National Communities has been collecting similar data for decades. In 2022, the Provincial Secretariat last published data on the language use of local public administration on its territory, including the ethnicity and mother tongue of employees, language skills as an employment criterion, the number of documents issued in minority languages, the number of administrative proceedings in minority languages, etc.³⁰ Without reviewing the table in details, it can generally be concluded that the linguistic and ethnic proportions of local public officials almost nowhere correspond to the linguistic and ethnic proportions in the local population, in the autonomous province.

Unlike the Framework Convention, the European Charter does not protect national minorities themselves, but regional or minority languages as part of the common European cultural heritage. Although they have different goals that are achieved by different methods, it is indisputable that the approaches of the aforementioned acts to minority rights and languages complement each other, which justifies the inclusion of the European Charter in the group of international – regional documents for the protection of minority rights (Woehrling, 2005, 34). Instead of emphasizing what persons belonging to national minorities are entitled to, the European Charter emphasizes the positive obligations of the contracting states and contains much more detailed actions than the Framework Convention itself. The specificity is its *à la carte* character, which allows states to freely choose their obligations from several options offered and apply a different legal regime for each selected language “according to the situation of each language” (Kardos, 2019, 267). Regardless of this opportunity, Serbia has still decided to apply the selected provisions of the European Charter for certain minority languages, specifically for: Albanian, Bosniak, Bulgarian, Croatian, Hungarian, Roma, Romanian, Ruthenian, Slovak and Ukrainian languages, uniformly,³¹ without taking into account the individual situation of these languages in the country (number and territorial concentration of speakers, development of educational and cultural infrastructure, traditions of official use of the language, professional staff in the specific language, etc.). This was the reason why Serbia was slightly criticized in the first state report (2008). Namely, according to the Committee, with respect to the Albanian and Hungarian languages, more ambitious obligations from the Charter should be applied, and the fulfillment of some of the undertakings from the aspect of these two languages was

²⁹ Law on the Register of Employees, Elected, Appointed and Engaged Persons at Users of Public Funds [Zakon o Registru zaposlenih, izabranih, imenovanih, postavljenih i angažovanih lica kod korisnika javnih sredstava] Official Gazette of the RS, No. 68/2015, modified in No. 79/2015.

³⁰ Official Use of Languages and Scripts in the AP Vojvodina, https://www.puma.vojvodina.gov.rs/etext.php?ID_mat=207

³¹ Law on the Ratification of the European Charter for Regional or Minority Languages [Zakon o ratifikaciji Evropske povelje o regionalnim ili manjinskim jezicima], Official list of SCG – International Treaties, No. 18/2005.

not the result of Serbia's successful implementation of the Charter, but rather the relatively good previous status of these languages in the country (before the ratification) (Committee of Experts, 2009, 62–63). In the end, Serbia did not change its approach. Instead, the situation has been developing at the local level, with the help of so-called 'local charters'. The municipality of Kanjiža adopted a decision to apply additional or stronger pledges within its competences to Hungarian; the municipality of Kula followed this pattern, but to more languages (Hungarian, Ruthenian, Ukrainian and German) (Committee of Experts, 2023, Point 7).

In the field of public administration (Art. 10, called *Administrative authorities and public services*) the European Charter contains couple of undertakings in respect of the use of minority languages within the administrative districts of the state, in the local and regional administrative authorities, public services, and in respect of the use of traditional place-names and family names in minority languages. Studying the Serbian legislation, it is striking that the national legislation recognizes a much higher level of rights in the public administration than what Serbia undertook for itself based on the Charter, especially regarding conduct of entire first instance administrative proceedings in official minority languages.³² On the other hand, in the last country report the Committee of Experts noted that even though the use of minority languages in the field of administration had improved in specific fields compared to the previous monitoring cycle (good cooperation between users of minority languages and local administration, capacity building in municipalities, raising awareness in general, multilingual signs), there is still room for improvement. "The national authorities need to provide more examples of documents available in relevant minority languages. Furthermore, with the partial exception of Hungarian, minority languages have not been used in oral or written submissions to local branches of the national authorities" (Committee of Experts, 2023, Point 39). This last comment was, otherwise, already published in the very first recommendation (Committee of Ministers, 2009), but apparently it is still relevant. Furthermore, Serbia is required to improve its human capacities (train translators, identify and/or recruit staff who is able to work in minority languages, work on staff mobility procedure, train bilingual staff etc.), and prepare translated forms of official documents.

Serbia guarantees the protection of the Bunjevac, Czech, German, Macedonian and Vlach languages, but only under Article 7. Namely, the goals and principles under Article 7 form the necessary legal-institutional-financial framework for the preservation of the mentioned minority languages, but do not provide precise rules regarding the implementation (Ramallo, 2018, 33). The need to re-evaluate the undertaken obligations in the context of the marked languages is unequivocal, especially given the fact that the Bunjevac and Czech languages only receive general protection under Article 7, while both are in official use in a municipality. On the other side, regarding Romani and Ukrainian, the undertakings from Part II of the Charter cannot even be considered formally fulfilled as they need to be introduced into official use in municipalities (Committee of Experts, 2023, Point 39).

3.3 Domestic legal framework with practice

Once again, if a minority language is recognized as official by the given municipality, it will affect almost all levels of public administration: all signage must be posted in that language;

³² Serbia has committed to Para. 1 Item a (iv), (v); Para. 2 Item b, c, d, g; Para. 3 Item c; Para. 4 Item c; and Para. 5 in the Article 10.

customers can communicate with the bodies in this language; they can request official procedures, forms, certificates, public documents in this language, etc. The provisions of the Law on the Official Use of Languages and Scripts apply to all bodies performing public tasks, including public administrative authorities at all levels, on the condition that they perform their work in the territory of a municipality that has introduced the national minority language into official use. Therefore, it uniformly regulates court proceedings, administrative proceedings, but also all other proceedings in which the rights of the parties can be decided (e.g. labor, disciplinary disputes).

According to the law, proceedings must be conducted in Serbian until the language of the proceedings is agreed upon. In the case of one-party procedures, the party himself can request the procedure in the minority language introduced into official use. In the case of multi-party procedures, parties must agree, but if one of them requests a procedure in Serbian, the procedure is automatically in Serbian. In such cases, parties belonging to national minority may continue to use their mother tongues, but this is no longer considered a procedure in a minority language. The minutes are kept only in the Serbian language, and the decision is made only in Serbian, as well. However, in the case of proceedings in a minority language, the minutes are kept in parallel in Serbian and in the minority language, and decisions are made authentically in both languages.³³

Second instance proceedings are always in Serbian. In such cases, the first instance body takes care of the translation of the materials, at its own expense.

In contrast to court proceedings, administrative proceedings are less formalized, most administrative acts are passed automatically on predetermined forms, most often in abbreviated proceedings, without holding an oral hearing. “In practice, oral hearings are relatively rare because, unlike in court proceedings, in administrative proceedings parties rarely participate with conflicting claims [...], and the facts are often established using documents (which generally do not require oral hearings).” (Korhecz & Teofilović, 2018, 192) In such cases, the language of the proceedings is usually determined based on the language of the party’s submission by which the proceeding was initiated. Those procedures cause problem that should be initiated on the basis of standardized forms, and whose translation into the languages in official use is not available (usually before local organizational units of the state administration). As follows, it is impossible to conduct proceedings in official languages other than Serbian from the very beginning. Of course, the question is justified, whether a party can translate the official form on its own initiative and use it before the competent authority. If the form is published in the Official Gazette of the Republic of Serbia (e.g. tax documents), the answer should be negative, but the authority is still obliged to ensure both oral and written use of languages being official in its work. On the other hand, in the conditions of digitization of the entire process, some requests can only be submitted in electronic form which is currently also available exclusively in the Serbian language. With appropriate software development, the multilingualization of e-public administration could be easily implemented; however, this goal is not included in the relevant strategic documents on the reform of the public administration in Serbia.

If the procedure is not conducted in minority language, the party belonging to national minority still has the right to (1) use his language in the proceedings; (2) to submit petitions, appeals, proposals, etc. in his own language; (3) to get copies of decisions and other acts decide on his rights and obligations, minutes or its parts translated on his own language; and (4) to

³³ Law on the Official Use of Languages and Scripts, Art. 12–14.

ask for the testimonies and other statements to be translated³⁴ In such cases the help of an interpreter is necessary only if the official conducting the procedure does not have sufficient knowledge of the national minority language. Because according to the law the acting body pays the translation costs, it is a more effective solution to ask for help within the authority, from colleagues who know the national minority language properly than hiring an external translator. Although the Law on Employees in Autonomous Provinces and Municipalities provides the possibility for mobility not just within, but between authorities,³⁵ this is not a typical practice in the case of special need for realization of minority language rights.

Most administrative procedures not only start on a standardized administrative form but also end with decisions on such forms, which means that competence in minority languages is not even required on the part of the official to be able to draft such simpler administrative acts. Apart from personal data, the text of the act is rarely changed. The situation is even simpler when decisions are composed through automatic computer data processing when the human factor is completely absent, or it is reduced to technical tasks and signing. In such circumstances, it would also be easy to carry out more procedures in minority languages with the help of appropriate software developments, compilation of multilingual registers (of addresses, names, personal data) and IT training of employees.

Although the Law on the Official Use of Languages and Scripts provides a general framework for minority language use before public bodies, each procedural law may contain different solutions. According to the Law on General Administrative Procedure, if the procedure is not conducted in the language of the party or another participant, and they do not understand the Serbian language, at their request, the course of the procedure is translated for them to their language and script, i.e. the language and script they understand.³⁶ This means that the right to translation depends on the condition whether the party knows Serbian, and the translation is performed in one of the languages that the party understands which may or may not necessarily be his native language. This legislative model, however, much more restrictive than the provisions of the Law on the Official Use of Languages and Scripts which do not bind the use of own language to any conditions.

The Law on General Administrative Procedure does not regulate the personality of translators; but if we proceed from the solutions of other procedural laws, in administrative proceedings the translation should be performed by court translators who are the only ones competent in Serbia to carry out official translations both in writing and orally. On the other side, according to the relevant court practice, the administrative body is obliged to allow the party to choose an interpreter himself through whom he will follow the procedure, if he is unable to understand the interpreter provided by the administrative body conducting the procedure.³⁷ This situation mainly arises when dialects of certain foreign languages are used, and this issue is less relevant for 'traditional' minority languages.

³⁴ Law on the Official Use of Languages and Scripts, Art. 16–17.

³⁵ Law on Employees in Autonomous Provinces and Municipalities [Zakon o zaposlenima u autonomnim pokrajinama i jedinicama lokalne samouprave], Official Gazette of the RS, No. 21/2016, modified in Nos. 113/2017, 95/2018, 114/2021, 92/2023, 113/2017, 95/2018, 86/2019, 157/2020, 123/2021, Art. 112.

³⁶ Law on General Administrative Procedure [Zakona o opštem upravnom postupku], Official Gazette of the RS, No. 18/2016, modified in Nos. 95/2018, 2/2023, Art. 55.

³⁷ Judgement of the Administrative Court of Serbia, No. 9U 17468/2012 of February 13, 2013.

The Law on General Administrative Procedure is an umbrella law, and it is applied as *lex generalis* in relation to special administrative procedures, such as customs procedure, tax procedure, procedure before the real estate cadaster, etc. According to the Law on Tax Procedure and Tax Administration if the taxpayer submits a document in a language and script that are not in official use by the tax authority, the tax authority will set a deadline that cannot be shorter than five days in which the taxpayer will submit a certified translation into Serbian.³⁸ However, it is not clear why the taxpayer cannot submit a certified translation into one of the languages in official use, but only into Serbian.

Another example refers to the public procurement procedures which should always be conducted in the Serbian language, but the tenderer may also prepare procurement documentation in a foreign language, and the economic operators may also submit the offer in a foreign language.³⁹ The law only mentions foreign languages and not languages in official use, which is just another example of the fact that national minority languages in official use are not equal to the Serbian language; moreover, in this concrete case they have been reduced to the status of foreign languages. Furthermore, the Administrative Court has found that the legal exception of bilingualism only applies to the preparation of tender documents and the submission of offers, but not to the language in which the authority conducts the public procurement procedure, which is always exclusively Serbian.⁴⁰

The above rules apply only to the local organizational units of the state administration (in addition to other public organizations operating in the territory of the municipality), not to the state administrative bodies operating in Belgrade. This means that the proceedings before them are always in Serbian, but “members of national minorities whose number in the total population of the Republic of Serbia reaches at least 2% according to the latest population census can address the state authorities in their own language and have the right to receive an answer in that language.”⁴¹ Smaller national communities can address in their native languages the state administrative bodies through the municipality where their mother tongue is in official use.⁴² However, we emphasize once again that this is not the conduct of a procedure, only informal communication with a state body. Otherwise, persons belonging to a national minority can freely contact orally, in writing, and electronically all bodies operating in the municipality in the language that is in official use and have the right to get an answer in that language. But the realization of this right in practice depends to a large extent on the territorial concentration of the given minority, the reputation of the language, the position of minority politicians, etc.

³⁸ Law on Tax Procedure and Tax Administration [Zakon o poreskom postupku i poreskoj administraciji] Official Gazette of the RS, No. 80/2002, modified in Nos. 84/2002, 23/2003, 70/2003, 55/2004, 61/2005, 85/2005, 62/2006, 63/2006, 61/2007, 20/2009, 72/2009, 53/2010, 101/2011, 2/2012, 93/2012, 47/2013, 108/2013, 68/2014, 105/2014, 91/2015, 112/2015, 15/2016, 108/2016, 30/2018, 95/2018, 86/2019, 144/2020, 96/2021, Art. 10, Para. 8.

³⁹ Law on Public Procurement Procedures [Zakon o javnim nabavkama], Official Gazette of the RS, No. 91/2019, modified in No. 92/2023, Art. 42.

⁴⁰ Judgement of the Administrative Court of Serbia, No. U 5437/2014 of October 17, 2014.

⁴¹ Law on the Official Use of Languages and Scripts, Art. 11, Para. 9.

⁴² Law on the Official Use of Languages and Scripts, Art. 11, Para. 10.

4 Concluding Remarks

A detailed examination of the legislation allows us to conclude that even a generally minority-friendly legislation of Serbia consists of many inconsistencies, gaps, and provisions that cannot be (fully) implemented in practice. Also, positive example of places where public administration operates in multiple languages is actually not due to the laws, but to the local political power of the given minority, its size, and the institutional traditions of the given language use.

Since national minorities are not exempt from negative demographic trends either, there are fewer and fewer people who communicate with the state in the minority language. In many places, the use of the minority language is only symbolic, and no more than multilingual nameplates indicate that a minority language is in official use there. On the other hand, there are still municipalities in which the entire public (local) administration runs in parallel in two (in rare cases even more) languages. For this reason, a complete paradigm shift in the official use of minority languages would be necessary, and instead of a general 15% threshold, municipalities should be classified into different categories, given that the basis of the country's language legislation is the demographic reality in municipalities. Depending on the capacities of a national minority, equality of minority languages in official use should still be maintained in some cities, while in others minority language use should be reduced to certain working days and activities. With the help of today's highly developed translation programs and translation tools, means of electronic administration, many public administration tasks could be made multilingual, with little investment over a short time. However, this does not mean, of course, the replacement of civil servants belonging to national minorities and speaking national minority languages, but rather an opportunity to rationally group the limited and dwindling human resources.

Given the narrow scope of competences of the autonomous province, substantive change can be hoped for primarily at the level of municipalities, which, even though bound by the law, have power to adapt the not always perfect legal provisions to local conditions. It would also be important to establish more cooperation between local administration and local organizational units of the state administration for the purpose of full implementation of language rules in official communication. However, the past decades show that Serbia continues to stagnate in terms of developing minority language rights. The system corrections are so slow and gradual that it is feared that there will be too few people left who would use the given minority language in the public administration before the innovations and reform ideas would bring the expected results.

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