



Coalition for Promotion and Protection of Human Rights

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EXERCISE OF THE RIGHT TO OFFICIAL USE OF NATIONAL MINORITIES LANGUAGES AND SCRIPTS IN UNITS OF LOCAL AND REGIONAL SELF-GOVERNMENTS AND PROGRAMS IN NATIONAL MINORITIES LANGUAGES ON THE CROATIAN RADIO AND TELEVISION

INTRODUCTION

The right of persons belonging to national minorities to private and public use of their mother tongue and script is one of the key issues necessary to preserve and protect identity, culture and other specificities of minority communities.

By considering this often complicated and sensitive issue, the High Commissioner for National Minorities of the Organisation for Security and Cooperation in Europe (OSCE HCNM), among the rest, stated the following: "On the one hand, language is a personal matter closely connected with identity. On the other hand, language is an essential tool of social organisation which in many situations becomes a matter of public interest. Certainly, the use of language bears on numerous aspects of a State's functioning. In a democratic State committed to human rights, the accommodation of existing diversity thus becomes an important matter of policy and law. Failure to achieve the appropriate balance may be the source of inter-ethnic tensions."¹

The right to use national minorities' languages and scripts in the Republic of Croatia is exercised on the basis of The Constitutional Law on the Rights of National Minorities (CLNM), The Law on the Use of Languages and Scripts of National Minorities in the Republic of Croatia (LULSNM) and in accordance with international instruments.

This document is limited to consideration of particular issues in relation to the equal official use of national minorities' languages and scripts in the Republic of Croatia, as well as issues of production and broadcasting of programmes in national minorities' languages on Croatian Radio and Television (CRT) being the only public radio and television service in the Republic of Croatia. This document relays on the content of the roundtable discussion held in Zagreb on 24th October 2006².

This document aims to raise awareness on certain issues relating to the exercise of the right of persons belonging to national minorities to an equal official use of languages and scripts they use. It also aims to raise awareness on the issues of content of CRT programs targeting national minorities. It tends to contribute to the initiatives focused on exercise of above mentioned rights in practice.

OFFICIAL USE OF MINORITY LANGUAGE AND SCRIPT – LEGISLATIVE FRAMEWORK

Terms of official use of national minorities' languages and scripts providing equality of a minority language with Croatian language and Latin script are set by the LULSNM brought in 2000.

The Article 12 of the CLNM establishes three options of exercise of the right to equal official use of languages and scripts used by persons belonging to national minorities:

1. when members of a particular national minority comprise at least one third of the population of such a unit;
2. when it is anticipated in the international agreements which, in compliance with the Constitution of the Republic of Croatia, form a part of the internal legal system of the Republic of Croatia;
3. when it is stipulated by the statute of a local self-government unit or by the statute of a regional self-government unit in compliance with the provisions of LULSNM.

The LULSNM regulates the terms and manner of exercise of the right to equal official use of languages and scripts used by persons belonging to national minorities in representative and executive bodies and in procedures before administrative bodies of units of local and regional Self-governments³; in procedures before the first instance state administrative bodies; in procedures administered by the State Attorney's Office or public notaries, and legal entities with public authorities (Articles 8-20).

LULSNM and/or Statutes of units of local Self-governments establish measures enabling preservation of traditional names and signs and naming settlements, streets and squares by persons and events important for the history and culture of respective national minority in the Republic of Croatia in areas traditionally or largely inhabited by persons belonging to national minorities. Exercise of the right to write and to show bilingual or multilingual topographic signs depends on the introduction of a national minority language and script to an equal official use.

Persons belonging to national minorities were recognised the right to issuance of bilingual ID cards in Croatian language and the language and script they use (Article 9 paragraph 2 of CLNM), in the whole territory of the Republic of Croatia no matter if the minority language and script are in an equal official use in respective Self-government unit or not.

LULSNM and CLNM establish that the rights acquired in the prior period are to be respected once they enter into force. LULSNM establishes that the right to use national minorities' languages and scripts acquired in accordance with previously applied regulations (Article 2 paragraph 2 of LULSNM) are not to be changed or cancelled with the LULSNM entering into force. Basic provisions of the CLNM establish that the Constitutional Law or a special law shall render it possible to exercise certain rights and freedoms, among the rest, depending on acquired rights and on the international agreements (Article 4 paragraph 6 of the CLNM).

Framework Convention for Protection of National Minorities (FCNM) and European Charter on Regional or Minority Languages (the ECRML) present important international multilateral agreements.⁴

FCNM establishes that: in areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities (Article 10 paragraph 2); and that in areas traditionally inhabited by substantial numbers of persons belonging to a national minority, the Parties shall endeavour, in the framework of their legal system, including, where appropriate, agreements with other States, and taking into account their specific conditions, to display traditional local names, street names and other topographical indications intended for the public also in the minority language when there is a sufficient demand for such indications (Article 11 paragraph 3).

Articles 9 and 10 of ECRML regulate obligations of the Republic of Croatia regarding use of minority languages before judicial bodies, administrative bodies and public services in areas of responsibility of courts and administrative state territories in which the number of traditionally settled persons using regional or minority languages justifies implementation of foreseen measures. Accepted obligations refer also to giving traditional names to settlements in minority languages. Implementation of ECRML refers to use of Italian, Hungarian, Serbian, Czech, Slovakian, Ruthenian and Ukrainian languages.

EXERCISE OF THE RIGHT TO OFFICIAL USE OF MINORITY LANGUAGE AND SCRIPT IN PRACTICE – SOME OF THE OPEN QUESTIONS

Advisory Committee of the Framework Convention for Protection of National Minorities of the Council of Europe (AC SO FCNM) concluded in 2004⁵ that the numerical threshold guaranteeing introduction of minority language into equal official use excludes a number of municipalities and cities inhabited by substantial number of persons belonging to national minorities (e.g. city of Vukovar where Serbs, according to the 2001 census make 32,88% of the population; and city of Knin where Serbs make 20,83% of the population). AC FCNM pointed out that the implementation of the guaranty was not consistent in all municipalities where the numerical threshold was met. The Committee stressed that the possibility to stipulate equal official use of minority language by statutes of Self-government units is often not applied regardless of the number of persons belonging to respective national

minority despite positive examples from Istria relating to Italian language. Croatian authorities are recommended to take proactive measures to ensure implementation of legal guaranties in all units of local Self-governments. Further on, authorities are encouraged to use their discretionary power to introduce the possibility of use of minority language in communication with public authorities in areas inhabited by persons belonging to national minorities in substantial numbers.

In 2005⁶, the Committee of Experts for monitoring and Evaluation of the Implementation of European Charter on Regional or Minority Languages (CE ECRML) informed that they do not have a complete picture of the territories where the official use of minority languages is stipulated on the basis of one of the automatic law-foreseen criteria, meaning on the basis of realisation of the numerical threshold or on the basis of international agreements. Non-determination of the territorial scope of the area where undertaking of measures described in Articles 9 and 10 of the Charter would be justified, decision on introduction of bilingualism was left to a discretionary decision of local authorities which leads to a certain level of uncertainty. CE ECRML mentions examples of towns Daruvar in relation to Czech language, Beli Manastir in relation to Hungarian, and Rijeka in relation to Italian language. In all those places, respective minorities' languages are traditionally and significantly present but bilingualism is not prescribed by local Statutes. This fact largely complicates or disables official use of minority languages since those towns are main administrative centres of the territories where mentioned minority languages are significantly and traditionally present. The Committee have concluded that the obligations from Articles 9 and 10 of the ECRML are, in most cases, formally fulfilled. Namely, legal possibility for introduction of bilingualism exists but it is not being implemented in practice. The excerption, up to certain level refers to use of Italian language in Istria.

According to the data available, in 2005, minority languages were introduced to official use in 61 local Self-government units: in 31 units on the basis of the law, in 26 units on the basis of the statutes, and in 4 units on the basis of international agreement.⁷ The right to bilingualism, however, in most cases, is not implemented in practice.⁸

The President of the Club of Members of the Parliament representing national minorities, Mrs. Zdenka Čuhnil, made the following table containing number of municipalities and cities where national minorities have and exercise the right to bilingualism on the basis of existing legal solutions⁹:

MINORITY	Number of municipalities and cities – right to bilingualism based on			Total possible	Implementation
	Acquired rights	Number of inhabitants 1/3 and more	International agreements		
Italians	42	2	5 (3)	47	45
Hungarians	36	2		38	2
Czech	9	1 (1)		9	1
Slovaks	5	1		6	1
Ruthenian	4	-		4	Included in the Statutes but not implemented
Ukrainian	2	-		2	-
Serbs	-	21		21	11 (7 partial implementation)
TOTAL	98	27		127	61

Issue of recognition of linguistic rights acquired in accordance with earlier applied regulations is pointed out as a specific issue in relation to bilingualism. This problem is

most pronounced in cases of requests for recognition of acquired rights to equal official use of Czech language in Daruvar and Hungarian language in Beli Manastir.

Although the principle of respect of acquired rights is stipulated by provisions of LULSNM and CLNM, local authorities did not meet requirements of representatives of above mentioned minorities who asked for the Statutes of Daruvar and Beli Manastir to be harmonised with legal provisions on respect of acquired rights in reference to establishment of official bilingualism.

Request for introduction of Hungarian language to equal official use in the Town of Beli Manastir, in which persons belonging to Hungarian national minority constitute about 10 % of total population, is explained by the right acquired on the basis of the Decree on Manner and Criteria for Use of Languages and Scripts of Nationalities from 1981. That Decree established equal use of Hungarian and Serbo-Croatian Language on the territory of former Municipality of Beli Manastir. According to the provisions of the Law on Areas of Units of Local and Regional Self-government brought in 1993, former Municipality of Beli Manastir was administratively divided into 9 units of local Self-government – eight municipalities and the Town of Beli Manastir. In two out of nine newly established Self-government units, an equal use of Hungarian language is exercised in two municipalities: Bilje and Kneževi Vinogradi as persons belonging to Hungarian national minority constitute more than one third of the population in those municipalities. The right to bilingualism is exercised only in some parts of territories of those two municipalities on the basis of the Article 6 paragraph 2 of LULSNM, which provides such a possibility. Realistically speaking, the need for equal official use of Hungarian language does not exist any longer in all newly established units of local Self-government. The Town of Beli Manastir, however, is the local administrative centre, and therefore, non-recognition of acquired rights disables use of Hungarian language for official purposes of both persons belonging to Hungarian national minority from Town of Beli Manastir and those from other eight municipalities.¹⁰

Similar situation refers to the territory of 9 units of local Self-government, including the Town of Daruvar, in relation to the issue of recognition of the right to equal official use of Czech language that was cancelled in 1993. According to the opinion of Mrs. Zdenka Čuhnil, Member of the Parliament representing Czech and Slovak national minorities and the President of the Club of National Minorities' representatives in the Croatian Parliament, the Central State Office for Administration does not believe that they should take care that the Statutes of the units of local Self-governments are in conformity with the laws and they do not want to inspect the Statutes of units of local Self-governments where they should do so.¹¹ This issue has also been considered by the Council for National Minorities that, in July 2006, decided to file a constitutional lawsuit against the Government of the Republic of Croatia, meaning the Central State Office for Administration, in case the issue of introduction of bilingualism for Czech national minority in Daruvar is not resolved by the end of September 2006.

In some municipalities where Serbian language and Cyrillic script are introduced to official use, e.g. in Trpinja and Borovo, the problem is impossibility of placement of topographic signs in language and script of respective national minority. Despite the efforts of municipal authorities and requests sent to the competent institutions, the right to write names of settlements in minority language and script was not realised. Municipalities, however, are not in charge of placement of official boards containing names of settlements at their administrative territories. In 2005, the CE ECRML informed that according to their findings, it seemed that there are no such settlements where the name of the settlement would be written in Serbian language and script.

Exercise of the right to issuance of bilingual ID cards is sometimes problematic. Insignificant interest for exercise of this right has been noticed. The exceptions are only persons belonging to Italian national minority. The possibility to issue bilingual ID cards in the whole territory of the Republic of Croatia has been realised in the end of 2004; till that time, such ID cards were issued only in those areas where a language and script of particular minorities were introduced to equal official use. It seems that the lack of interest of possible applicants requesting bilingual ID cards is influenced, amongst other, by: insufficient familiarity of persons belonging to national minorities and officials in charge with the right to issuance of bilingual ID cards in the whole territory of the Republic of Croatia; requests for acquisition of the documents proving that a person belongs to particular minority; unprofessional behaviour of some officers in charge towards the applicants; fear to emphasise own ethnicity; and fear of possible discrimination.

PROGRAMS IN LANGUAGES OF NATIONAL MINORITIES ON CROATIAN RADIO AND TELEVISION (CRT)

In the OSCE HRNM Guidelines on the use of Minority Languages in the Broadcast Media, among the rest, is stated that the States should prescribe appropriate requirements for State or public service broadcasters with regard to the provision of programming in minority languages. Further on, States should ensure that the amount of time allocated and the scheduling of minority language broadcasting should reflect the numerical size and concentration of the national minority and be appropriate to their needs and interests.¹²

Article 18 of the CLNM establishes that radio and television stations at the national, regional and local level shall have the task to produce and/or broadcast programmes intended for the information of persons belonging to national minorities in the languages of national minorities

The task to produce and/or broadcast programmes intended for the information of persons belonging to national minorities in the Republic of Croatia at programs of Croatian Radio and Television is established by the Article 5 of the Law on Croatian Radio and Television.

By ratifying the ECRML, the Republic of Croatia took the obligation to, to the extent that radio and television carry out a public service mission and respecting the principle of the independence and autonomy of the media, make adequate provision so that broadcasters offer programmes in the minority languages for the users of seven minority languages within the territories in which those languages are spoken, according to the situation of each language and to the extent that the public authorities are competent (ECRML Article 11 paragraph 1 a) III).

In autumn 2002, Croatian Television planned to start producing a half-hour shows in ten minority languages and to broadcast one show every week.¹³ However, only one 50-minute show, "Prizma" magazine, specialised for minority issues is broadcasted once a week already for years. According to the opinion of the CE ECRML, the representation of minority languages in "Prizma" is symbolic, it insufficiently enables an autonomous and significant presence of each of seven languages that are protected by the ECRML, and beneficiaries can not know when or if their language will appear in the show. Therefore, as the television is concerned, the obligations from the ECRML are not fulfilled.¹⁴

CE ECRML has concluded that the situation is better in terms of radio programs. Regular radio programs in languages of several national minorities are broadcasted at regional radio stations of Croatian Radio. CE ECRML, however, is not familiar with the existence of radio programs in Serbian, Ruthenian and Ukrainian languages.¹⁵

Besides described issues referring to the fulfilment of obligations in terms of television and radio programs in minority languages, minority representatives are emphasising that the content and topics of those shows need to be adjusted to the needs and interests of each particular minority.¹⁶

REMARKS:

¹ See Foundation for Interethnic Relations: "Oslo Recommendations on the Right of National Minorities to use their Mother Tongue and Explanation", February 1998 (translation to Croatian published by Croatian Legal Centre)

² Roundtable discussion organised by the Coalition for Promotion and Protection of Human Rights within two-year program "Minority Rights in Practice – National Strategy for Croatia". Roundtable participants, 28 of them, were representatives of Central State Office for Administration; OSCE Mission to Croatia; local and regional Self-governments; associations and councils of national minorities; non-governmental HR organisations; and members of the CoE Committee of Experts for the European Charter on Regional or Minority Languages from the Republic of Croatia.

³ Units of local Self-government are municipalities and cities while the units of regional Self-government are the counties.

⁴ Framework Convention for Protection of National Minorities and European Charter on Regional or Minority Languages are international instruments for protection of human rights produced under the umbrella of the Council of Europe

⁵ See Advisory Committee for Framework Convention for Protection of National Minorities: Second Opinion on Croatia, accepted on 1st October 2004

⁶ See the Report of the Committee of Experts on implementation of the European Charter on Regional or Minority Languages in the Republic of Croatia – Second monitoring Cycle, 7th September 2005

⁷ Taken from the lecture by Mrs. Vesna Crnić-Grotić, member of the CoE Committee of Experts for the European Charter on Regional or Minority Languages from the Republic of Croatia, from the roundtable discussion "Exercise of the right to official use of national minorities' languages and scripts in units of local and regional Self-governments and programs in national minorities languages on the Croatian National Radio and Television". Zagreb, 24th October 2006

⁸ See: European Commission: Progress Report on Croatia, 9th November 2006

⁹ Taken from the lecture by Mr. Roberta Jankovics, roundtable discussion held in Zagreb, 24th October 2006

¹⁰ Ibid

¹¹ Taken from the interview with Mrs. Zdenka Čuhnil, Minority forum – Bulletin of the STINA Agency, July 2006

¹² See OSCE HCNM: Guidelines on the use of Minority Languages in the Broadcast Media, October 2003

¹³ See OSCE HCNM: Minority-language related Broadcasting and Legislation in the OSCE, April 2003

¹⁴ See the Report of the Committee of Experts on implementation of the European Charter on Regional or Minority Languages in the Republic of Croatia – Second monitoring Cycle, 7th September 2005

¹⁵ Ibid

¹⁶ From the roundtable discussion held in Zagreb, 24th October 2006

CONCLUSIONS AND RECOMMENDATIONS

Implementation of legal solutions in terms of exercise of the right to equal official use of a language and script of respective national minority in particular situations and in certain local areas remains problematic. This problem, at first, refers to respect and implementation of legislative provisions guaranteeing exercise of earlier acquired rights to equal official use of a mother tongue of Czech national minority in Daruvar and Hungarian national minority in Beli Manastir. Relatively high legally prescribed threshold required for equal official use of national minorities' languages and scripts, and remising of the regulation of the right to bilingualism to a discretion of authorities of local Self-government units, when obligatory introduction of bilingualism is not legally prescribed, result in certain doubts in terms of exercise of that particular right in some cases in practice. It also leads to not undertaking measures and not fulfilling the obligations set by the European Charter on Regional or Minority Languages referring to certain languages protected by this Charter. These problems relate to placement of bilingual or multilingual topographic signs, which depends on bringing of national minorities' languages and scripts into an equal official use. Exercise of the right to issuance of bilingual ID cards, which is guaranteed in the whole territory of the Republic of Croatia and is not depending on bringing of bilingualism in particular territory, is sometimes problematic.

An adequate representation of minority languages in programs of Croatian Television is not achieved, while the situation is better in relation to the programs of regional stations of Croatian Radio, although only in representation of some languages.

Aiming to overcome registered problems, Croatian authorities should:

- within shortest possible time, inspect statutes of relevant units of local Self-governments and establish on their conformity with legal provisions guaranteeing exercise of the right to an equal official use of language and script of respective national minority, and undertake efficient measures for full exercise of that right in practice taking into account obligations taken by ratification of international instruments;
- ensure provision of information to persons belonging to national minorities and officers in charge on the right and terms of issuance of bilingual ID cards in the whole territory of the Republic of Croatia. The information should be visibly placed in each police station;
- take measures that would enable an adequate representation of national minorities' languages at programs of Croatian Television in accordance with the laws and relevant international standards, and expressed interests and needs of speakers of different minority languages.

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