

THE PROTECTION OF ETHNIC MINORITIES IN THE REPUBLIC OF SLOVENIA AND THE EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES

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1 INTRODUCTION

The territory on which the independent Slovene state was founded at the beginning of the 1990s has never been ethnically homogeneous. The number of ethnic minorities, their extent and their real economic and political power were different in different historical periods in accordance with changes to the political boundaries. The last redefinition of borders in 1991 left Slovenia a rather colourful collection of Non-Slovene ethnic groups which can be divided into two categories: into «*historical*» *ethnic minorities*¹ (the diction of the Constitution is «autochthonous communities», without any explanation of the adjective autochthonous) and into a collection of the «*newly*» *emerged minorities*.² The latter category consists mainly of the members of former Yugoslav nations who came to Slovenia for different reasons (mainly employment) throughout the whole existence of the common Yugoslav state, namely from the mid-60. The category of historical ethnic minorities consists of Italian, Hungarian and Romany ethnic communities. A group which could not be easily classified into one of the two described categories is the German ethnic community. Undoubtedly it is a community which for centuries populated the territory now en-

1. The number (according to the 1991 census) of historical ethnic minority members is 11,567 (Italians and Hungarians) or 13,860, taking into account the number of members of the Romany community.

2. This category is composed of 222,321 persons (11.45% of Slovenia's population). Among them are 54,212 (2.76%) Croats, 47,911 Serbs (2.44%) and 26,842 Bošnjaki (Bosniaks) (1.36%).

compassed within the Slovenian state borders, but in contrast to the Hungarian and Italian ethnic communities, which are in more or less serried form preserved on their autochthonous ground, the maelstrom of war assigned a different fate to the German national community. Its post-war «disappearance» entailed the level and extent of its protection in the post-war period. Only in the final moments before Slovenia reached its independence did the German community begin to show signs of revitalisation. Unfortunately the process began too late³ and the community was not included in the aspiration for constitutional protection of ethnic minorities.⁴ Another problem that surfaced during the process of its revival were claims for the repayment of the properties confiscated after the war.

Three different concepts of minority policy correspond to three minority categories: a) the relatively complete legal protection of «historical» ethnic minorities, comprising, apart from constitutional regulations,⁵ ap-

3. The Most Svobode International Society, which we could, not without hesitation, define as a society of the «German minority», was officially registered in Maribor on 25th June 1991. The Kočevje aborigines have two societies: the Peter Kozler Kočevje society with its seat in Ljubljana, registered officially on 19th September 1994 and the Kočevar Aborigines Society, with its seat in Občice, officially registered at the administrative unit in Novo Mesto on 11th August 1992.

4. While preparing the new Slovene constitution, the Institute for Ethnic Studies held an extensive debate on the problems of safeguarding national minorities in Slovenia. In this debate the members of the Institute also brought to light the problem of safeguarding the members of the nations of the former common state and of the German community. In the publication created for that opportunity we wrote that it is urgent to consider the status of other ethnic communities living autochthonously in the Slovene territory in addition to the Italian, Hungarian and the Romany communities: «The Serbs (in the borderline territory in Bela Krajina), the Croats (in some borderline territories), and the question of the existence of the German ethnic community is also becoming apparent (it has long been believed in Slovenia that it no longer exists).» In: *Narodnost — manjšina ali skupnost. Urejanje, uresničevanje in varstvo pravic narodnosti (narodnih manjšin) v Republiki Sloveniji*. (Uredil Miran Komac), str. 133 Razprave in gradivo, INV, Ljubljana, št.24/November 1990

5. The Constitution of the Republic of Slovenia, article 11: «The official language of Slovenia is Slovene. In those municipalities where Italian or Hungarian ethnic communities reside, Italian or Hungarian shall also be official language.»

Article 64: (Special Rights of the Autochthonous Italian and Hungarian Ethnic Communities in Slovenia) The autochthonous Italian and Hungarian ethnic communities and their members shall be guaranteed the right to use their national symbols freely and, in order to preserve their national identity, the right to establish organisations and develop economic, cultural, scientific and research activities, as well as activities in the field of public media and publishing. In accordance with laws, these two national communities and their members have the right to education and schooling in their own languages, as well as the right to establish and develop such education and schooling. The geographic areas in which bilingual schools are compulsory shall be established by law. These national communities and their

proximately eighty laws and provisions covering different fields of minorities' life, b) a selective scope of regulations for the protection of the Romany community⁶ and c) the rudimental (legal) model for the protection of newly-formed national minorities. The Constitution does not contain any additional provisions for the protection of the latter group or the «reviving» of the German-speaking ethnic community. The only constitutional provisions that these communities (the newly emerged and the German) can rely on for preserving their ethnic particularities can be found in articles 61 (the expression of national affiliation)⁷ and 62 (the right to use one's language and script)⁸ of the Constitution.

Slovenia's international legal obligations to protect minorities are established also by some multilateral and bilateral agreements. Slovenia has concluded bilateral agreements with Italy and Hungary. Slovenia is bound to protect the Italian minority under the Osimo treaty in the section which

members shall be guaranteed the right to foster relations with their nations of origin and their respective countries. The state shall provide material and moral support for the exercise of these rights.

In order to exercise their rights, the members of these communities shall establish their own self-governing communities in the geographic areas where they live. On the proposal of these self-governing national communities, the state may authorise them to perform certain functions under national jurisdiction, and shall provide funds for the performance of such functions.

The two national communities shall be directly represented in representative bodies of local self-government and in the National Assembly.

The position of the Italian and Hungarian national communities and the manner in which their rights are exercised in the geographic areas where they live, the obligations of the self-governing local communities for the exercise of their rights, and those rights which the members of these national communities exercise also outside these areas, shall be regulated by law. The rights of both national communities and their members shall be guaranteed irrespective of the number of members of these communities.

Laws, regulations and other general acts that concern the exercise of the constitutionally provided rights and the position of the national communities exclusively may not be adopted without the consent of the representatives of these national communities.

6. For the protection of the Romany community article 65 of the Constitution is important (The Status and Special Rights of the Romany Community in Slovenia): «The status and special rights of the Romany community living in Slovenia shall be regulated by law».

7. The Constitution of the Republic of Slovenia, article 61 (Expression of National Affiliation): «Everyone has the right to freely express affiliation with his nation or national community be entitled to freely identify with his national grouping or ethnic community, to foster and give expression to his culture and to use his language and script.»

8. The Constitution of the Republic of Slovenia, article 62 (The Right to Use One's Language and Script): «Everyone has the right to use his language and script in a manner provided by law in the exercise of his rights and duties and in procedures before state and other bodies performing a public function.»

states that both sides (Italy and Yugoslavia) «shall preserve the validity of internal measures which were adopted during the implementation of the Statute mentioned (the Special Statute of the Memorandum of Understanding from 1954, note M.K.), and shall, within the framework of its internal legislation, guarantee to the members of the concerned minorities the same level of protection as was provided by the Special Statute which is hereby terminated». After the collapse of former Yugoslavia, Italy recognised independent Slovenia as one of the successor states. The Osimo Treaty is on the list of bilateral agreements to which Slovenia succeeded.⁹ Provisions for the protection of the Italian minority in Slovenia and the Slovene minority in Italy can also be found in the Agreement between the Government of the Republic of Slovenia and the Government of Italy in the Field of Culture and Education. The agreement was signed in Rome on 8th March 2000, published the Official Gazette of the Republic of Slovenia n. 49/2002.

The protection of the Hungarian ethnic minority in Slovenia (and the Slovenian minority in Hungary) is defined, apart from in the Agreement on Friendship and Cooperation between the Republic of Slovenia and the Republic of Hungary,¹⁰ also in a Special Bilateral Agreement between the two countries, concluded in 1992.¹¹

And finally, the Agreement in the Field of Culture between the Republic of Austria and the Republic of Slovenia, signed on 30th April 2001, must be mentioned. The statement that the ministries of both countries shall also include in their agendas «projects that benefit cultural, educational and scientific aspirations and the needs of the German-speaking ethnic community in Slovenia (such as projects in the field of language learning, scholarships, the protection of cultural heritage)» is extremely important, even vital for the German-speaking community. With the official recognition¹² of the existence of this community in the Republic of

9. The Act on Notification of Succession of Agreements between Former Yugoslavia and Italy, which includes the Osimo Treaty was published in the Official Gazette of the Republic of Slovenia n. 40, dated 14th August 1992, pp. 127-128.

10. The Agreement on Friendship and Cooperation between the Republic of Slovenia and the Republic of Hungary. Uradni list RS, MP, p. 6 (7.5.1993).

11. Convention on the Providing of the Special Rights of the Slovenian Ethnic Minority in the Republic of Hungary and the Hungarian Ethnic Community in the Republic of Slovenia. Uradni list RS, MP, no. 6/93.

12. It would be incorrect to say that the German-speaking community has been officially recognised only with the Slovene-Austrian Agreement on Cooperation in the field of Culture. Following the interpretation of F. Capotorti, special rapporteur of the Subcommission of the protection of minorities, the minority can be recognised in several ways: with the

Slovenia in this international agreement, an additional framework for the development and maintenance of ethnic identity was constructed. Namely, in the first decade after the independence of the Republic of Slovenia, the efforts of the German community to promote their own ethnic identity were often viewed through the accumulated knowledge of the Slovene-German national conflict in the past. Therefore, the opinions that promoting German ethnic identity is just the first step towards the revival of the German (Austrian) influence and power on the Slovene national territory were somehow «logical».

Among multilateral agreements it is worth mentioning two crucial documents approved by the Council of Europe: the *Framework Convention for the Protection of National Minorities* and the *European Charter for Regional or Minority Languages*. Slovenia signed the Framework convention on 28th February 1995, ratified it on 23rd March 1998, and it came into force on 28th July 1998. On the occasion of depositing the documents of ratification of the Framework Convention on 28th March 1998, Slovenia submitted a special declaration stating: «Considering that the Framework Convention for the Protection of National Minorities does not contain a definition of the notion of national minorities and it is therefore up to the individual Contracting Party to determine the groups it shall consider as national minorities, the Government of the Republic of Slovenia, in accordance with the Constitution and internal legislation of the Republic of Slovenia, declares that these are the autochthonous Italian and Hungarian national minorities. In accordance with the Constitution and internal legislation of the Republic of Slovenia, the provisions of the Framework Convention shall apply also to the members of the Roma community who live in the Republic of Slovenia».

Slovenia signed The European Charter for Regional or Minority Languages on 3rd July 1997, it was ratified on 19th September 2000 and it was published in the Official Gazette on 4th August 2000; it came into force on 1st January 2001.

At the time of the deposit of the instruments of ratification, the Republic of Slovenia declared that the Italian and Hungarian languages are considered to be regional or minority languages in the territory of the Re-

admission of legal entity status, with the adoption of special measures protecting its identity or with partial ensurance of certain rights. Considering that the state financially supported the cultural activities of the German cultural societies (albeit with modest amounts), at least one criteria for the recognition of the German national community has been legally met. (About the study of F. Capotorti see, for example: Danilo Turk, Študija OZN o pravicah pripadnikov manjšin. Razprave in gradivo, INV, Ljubljana, 1979, n.9-10, p.13-30).

public of Slovenia within the meaning of the European Charter for Regional or Minority Languages. An additional declaration was presented concerning the Romany language: «In accordance with Article 7, paragraph 5, of the Charter, the Republic of Slovenia will apply *mutatis mutandis* the provisions of article 7, paragraphs 1 to 4, also to the Romany language». The Romany language is treated as a non-territorial language. In the Charter a non-territorial language is defined as a language used by nationals of the State which differ from the language or languages used by the rest of the State's population but which, although traditionally used within the territory of the State, cannot be identified with a particular area thereof. We can find additional information on the definition of non-territorial languages in the Explanatory Report on the European Charter for Regional or Minority Languages, where Yiddish and Romany are cited as examples of non-territorial languages. In light of present dilemmas concerning the position of the German-speaking minority in Slovenia it might prove reasonable to solve this problem within the framework of the term non-territorial languages.

2. THE MODEL

Which elements in the Slovenian model of the protection of ethnic (national) minorities (communities) are worth pointing out? A starting point for the protection of ethnic (national) minorities (communities) in Slovenia is provided by the concept of *ethnically mixed territory* and the system of *collective rights* which the State grants *irrespective of the numerical strength or proportion* of the members of the ethnic minorities on the ethnically mixed territory. Ethnically mixed territory comprises the areas of the settlements in the individual municipality where members of the Italian or Hungarian ethnic minority have lived for centuries. The area of the ethnically mixed territory is specified in the statute of the respective municipality. According to article 11 of the Constitution of the Republic of Slovenia, in ethnically mixed areas the languages of the minorities are also *official languages*, in addition to Slovenian.

Collective rights pertain to ethnic minorities as objectively existing subjects. However, it depends on the individual members of the ethnic communities when and to what degree they will exercise their granted special rights. *The absence of a numerical clause* means that the State acknowledges the ethnic minorities as particularly important elements in the historical development of a territory that is the homeland of several ethnic

groups. The concept of ethnically mixed area may remind us of the «reservation» type of minority protection which is often incompatible with the modern mobility needs of individuals, therefore also of the members of the minority communities. However, to exceed this model of minority protection, multilingual states would have to be created, which in today's situation is an almost utopian idea. Namely, the present model for the protection of national minorities allows only an appropriate reevaluation of the traditional «reservation» view of minority protection. At least two principles of ethnic minority policies should be implemented if we wish to develop the model described. Firstly, the promotion of the idea that the *cultural and spiritual inheritance* of an ethnically mixed area is the common property of all its inhabitants, irrespective of their ethnic affiliation and/or the social status they possessed in various historical periods. And secondly, the definition of those rights which members of ethnic communities can exercise even outside the *ethnically mixed areas*. The Slovenian state has classed as such the following rights: the right of members of the ethnic communities to be listed on a special electoral register of the ethnic groups for the election of a special minority deputy to the National Assembly, even if they do not live in the ethnically mixed area, and the right to learn the language of the ethnic community even outside the ethnically mixed area.

Another very important peculiarity must be underlined: the solutions in the field of the *protection of ethnic minorities directly concern the members of ethnic majority* who reside on ethnically mixed territories too. Namely, even members of ethnic majority groups are obligated to have, for example, bilingual documents, to learn in public schools the language and culture of the ethnic minority, to respect the bilingual toponymy, etc.

Which right should be pointed out from the model of the protection of ethnic communities in Slovenia? Usually this honour goes to the right of members of the minorities to *use their language* in their private and public life freely and without any restrictions. Several laws prescribe the use of the Italian and/or Hungarian language in visible bilingualism, in the State and in the municipal administration, in bilingual documents and in the judicial system.

Special attention is further paid to the *right to education* for the members of ethnic communities. Provisions concerning the preservation of the national communities can also be found in the field of *information, cultural development, free relations*, the use of *national symbols and economic development*. And finally the system of *political participation* of the members of ethnic minorities in decision-making processes should be mentioned.

The right of the ethnic community to freely and publicly use their *national symbols* is guaranteed to the Italian and Hungarian ethnic minorities by article 64 of the Constitution, while more detailed provisions on the use of the symbols of the ethnic communities may be found in the appropriate laws.¹³ The use of symbols (raising the flag, playing the anthem) of the ethnic communities in public is deemed to be an acknowledgment by (political) administrators of the territory that the identity of the ethnically mixed area consists of a multitude of (also ethnic) identities, which should be declared openly, honestly and without fear of loss of sovereignty for the majority nation. This anthropological explanation is (usually) acceptable as long as the ethnic community has symbols (primarily the flag) which do not remind one of another state. Concerns and complications usually arise when the symbols of ethnic minorities are identical to the symbols of the «parent» nation, that is, the symbols of the *state* of the kin-nation. This very situation was encountered in Slovenia when the Italian and Hungarian ethnic communities chose the Italian and Hungarian national flags, respectively, for their nationality flags. The flags are identical to the state flags of Italy and Hungary, which may to some members of the majority nation give the impression of a «curtailed» sovereignty of the Republic of Slovenia in the ethnically mixed area.¹⁴ On the basis of these arguments, the National Council submitted a proposal to the Constitutional Court for a review of the constitutionality of those provisions of the Law on the Coat of Arms, Flag and Anthem of the Republic of Slovenia, which relate to the use of symbols of the Italian and Hungarian minorities. These were supposedly unconstitutional, being identical to the symbols of the neighbouring states, since they would impinge on the sovereignty of the Republic of Slovenia. The question which the National Council posed to the Constitutional Court was: from the viewpoint of the Constitution, may the symbols of the autochthonous Italian and Hungarian ethnic communities be identical to the symbols of another state? The Constitutional Court found that the use of the nationality symbols of ethnic communities which are identical to the symbols of a neighbouring nation is not unconstitutional. The Constitutional

13. Law on the Coat of Arms, Flag and Anthem of the Republic of Slovenia, and on the Slovenian National Flag. Uradni list RS. No. 67/94, articles 6, 13, 14 and 21.

Odlok o izobešanju zastav v Občini Piran. Primorske novice, Uradne objave, Koper, n. 41/2000.

14. Under the previous political system this dilemma did not arise, since a five-pointed red star was added to the Italian and Hungarian (national/state) flag.

Court based its adjudication on the provisions of the Constitution which state that «The autochthonous Italian and Hungarian national communities and their members shall be guaranteed the right to use their national symbols» (article 64). The actual phrase «their national symbols» already indicates that it is a matter of symbols of nations to which the Italian and Hungarian ethnic communities pertain to, that is, the symbols of the Italian and Hungarian nation. And the content of the Italian and Hungarian national symbols is known and cannot be a matter of choice; the national symbols are such as they have evolved through the history of the Italian and Hungarian nation. The autochthonous Italian and Hungarian ethnic communities and their members thus have the (constitutionally based) right to use as their own the Italian or Hungarian national symbols, irrespective of whether these are identical with the symbols of the Italian or Hungarian state. Only if the Constitution were to stipulate explicitly that an exception existed in the event that the national symbols were the same as the state symbols, could and should the provision of article 64 be understood differently». ¹⁵

In the international documents which Slovenia signed or succeeded to, the *economic development* of ethnic communities is dealt with primarily in the sense of a non-discriminatory attitude of the State towards the members of ethnic communities. Such a provision may be found in the Special Statute ¹⁶ of the Memorandum of Understanding from 1954. This level of non-discriminatory attitude has essentially not been improved even by the Framework Convention on the Protection of Ethnic Minorities. ¹⁷ A step forward can be found, however, in the Convention on Providing the Special Rights to the Slovenian Ethnic Minority in the Republic of Hungary and to the Hungarian Ethnic Community in the Republic of Slovenia. As provided for in this Convention, the ethnic communities are subjects that

15. Constitutional Court. 691. The decision on establishing the constitutionality of paragraph 2 of Article 13, paragraph 3 of Article 14 and paragraph 2 of Article 21 of the Law on the Coat of Arms, Flag and Anthem of the Republic of Slovenia and the Slovenian National Flag. (Official Gazette of the Republic of Slovenia No. 14/1999), p. 1322.

16. Special Statute of the Memorandum of Understanding (1954), Article 6: «The economic development of the Yugoslav ethnic population in the territory under Italian control and that of the Italian population in the territory under Yugoslav control shall be guaranteed without discrimination and with the fair distribution of the available financial resources.»

17. Framework Convention for the Protection of Ethnic Minorities, Article 15: «The contracting parties guarantee the necessary conditions for the effective participation of members of ethnic minorities in cultural, social and economic life and in public affairs, especially in those which are their immediate concern.»

cannot be bypassed in the shaping of the economic and social development of the area inhabited by the ethnic communities.¹⁸

The arrangement which Slovenia adopted in the area of the economic development of the ethnic communities could be placed in the framework of positive discrimination. Slovenia bound itself, in the Law on the Use of Funds Acquired by Purchase According to the Law on the Transformation of Enterprise Ownership,¹⁹ to set aside part of these funds (amounting to 2.5% of the accumulated money) exclusively for the creation of an economic foundation for the autochthonous ethnic communities. On the basis of that law, a special ordinance²⁰ was adopted defining in more detail the criteria and procedures for the allocation of these funds. The right to apply for funds for the creation of an economic foundation pertains to individuals—members of the autochthonous ethnic communities, and legal entities that are majority—owned by the members of the autochthonous ethnic community, or those whose founder is the ethnic community. The resources are distributed proportionally between the two autochthonous ethnic communities and are channelled into the development of farms, auxiliary activities at farms, cooperative organisations, small business and into investments in other production or service facilities and equipment in the economy. One condition for the acquisition of funds in the form of a loan is at least 15% self-participation of the applicant. Applications for loans lodged by the members of the ethnic communities are handled by a special committee consisting of representatives of the Ministry of Economic Affairs and Development, the Ministry of Agriculture, Forestry and Food, the Ministry of Economic Activities and the Bureau for Minorities of the Republic of Slovenia. Before making a final decision on the applica-

18. Convention on the Providing of the Special Rights of the Slovenian Ethnic Minority in the Republic of Hungary and the Hungarian Ethnic Community in the Republic of Slovenia, article 7: «The signatories bind themselves to consider in their regional and economic development plans, the special interests of minorities, and to guarantee such economic and social development of areas with autochthonous minority settlement as will promote the social and economic equality of the minorities.

The signatories shall, for the benefit of the minorities, support all forms of cross-border cooperation, particularly economic cooperation.

The signatories shall support such economic development as will prevent emigration of the population and a forced change in ethnic structure of the autochthonous territory of the minority».

19. Official Gazette of the Republic of Slovenia No. 45/95, article 7.

20. Ordinance on the criteria, conditions and procedures for the allocation of funds for the creation of an economic foundation for the autochthonous ethnic communities. (Official Gazette of the Republic of Slovenia Nos. 33/97 and 16/99).

tions, the committee must obtain the opinion of the Coastal self-governing ethnic community of the Italian minority and the Pomurje Hungarian ethnic community, on the significance of the proposed projects for those communities. Until 1999 three tenders had been advertised for the allocation of the funds for the preservation and development of the economic foundation of the ethnic communities.

The Strategy for Regional Development of Slovenia,²¹ prepared by the Ministry of Economy does not determine the economic foundation of minority communities as a special development category. In item 4.2 (Preferential areas of regional policy) it is written that the Slovene regional policy will be particularly active in the areas «where the Hungarian and Italian national communities and the Romany ethnic group live».²² The State is to act mainly with «indirect regional incentive». The State uses the term ethnically mixed territory and not individual national minorities. This is theoretically acceptable. However, the ways in which the minority communities would acquire the development incentives remain undefined. So a real danger exists that the nationally mixed areas will gain the State incentives because of the presence of minority communities, whilst the communities themselves will find it more difficult to obtain such funding.

At the end of this summary review the problem of *the political participation of national communities* is worth addressing. The correlation between the political participation of the members of ethnic communities and the system of special ethnic minority rights may be observed from several perspectives: *firstly*, through the realisation of the right to (or desire for) appropriate representation of ethnic minorities in governmental bodies at local and national levels; *secondly*, by analysing the scope and depth of the actual power that the elected deputies of ethnic minorities have in representing the interests of ethnic minorities; and *thirdly*, by examining the (political) self-organisation of ethnic minorities in the light of the realisation of the system of special minority rights in Slovenia. These institutions are known as «*Self-governing ethnic communities*».

When discussing the *participation in decision-making* by the members of ethnic communities, we have in mind only one segment of ethnic minority participation in decision-making: their political activities which relate to the realisation of special minority rights. Political activity arising

21. Strategija regionalnega razvoja Slovenije (The Strategy of Regional Development of Slovenia), Poročevalec, n. 60 (Ljubljana, July 9th 2001).

22. Strategija regionalnega razvoja Slovenije (The Strategy of Regional Development of Slovenia), Poročevalec n. 60 (Ljubljana, July 9th 2001), p. 44.

from purely ideological determination of the members of an ethnic community belongs in the category of the general human rights which pertain to every citizen without distinction. Although one cannot completely separate the two segments, the present discussion uses the term «double political personalities», meaning that the members of national communities participate in politics as either ordinary citizens or, at other times, as citizens with special national attributes. Such methodological distinction is meaningful when the law-maker raises the minority attributes to the level of constitutive elements of the state. From statements above in this text it may be concluded that this very model was chosen and implemented in Slovenia. Electoral legislation has been designed in accordance with the described model, and it gives to the members of the Italian and Hungarian ethnic communities the right to *cast two votes* in the elections for deputies to the National Assembly or in the elections for local self-governing bodies (municipalities). The first vote is used to choose a candidate according to the ideological political affinity of the individual member of the ethnic minority, and the second vote to elect a special deputy of the ethnic community.

Before analysing the problem of political participation in a more detailed way, another very important provision in the model of the protection of ethnic minorities must be mentioned — in order to properly protect the interests of the ethnic minorities and to avoid the possibility that the legislation concerning strictly minority matters would be adopted against the will of the ethnic communities, the Constitution contains the provision that these laws *«may not be adopted without the consent of the representatives of these national communities»*.²³

2.1. *Representatives of the national communities in the National Assembly*

The 1991 Constitution of the Republic of Slovenia²⁴ guarantees the members of the Italian and Hungarian ethnic communities appropriate representation in the National Assembly and in representative bodies of local self-government. In article 80, the Constitution defines more specifically that «one deputy of the Italian and one deputy of the Hungarian national communities shall always be elected to the National Assembly». More importantly, the State authorises the self-governing ethnic communi-

23. Constitution of the Republic of Slovenia, article 64, par. 5.

24. See article 64 of the Constitution of the Republic of Slovenia.

ties²⁵ to compile electoral registers of Slovenian citizens who are members of the Italian or Hungarian minorities. The task is performed by a special commission of the respective self-governing ethnic community.²⁶ This electoral register is used for the election of the representatives of the ethnic minorities at the local level (municipalities) and for the election of the representatives in the self-governing ethnic communities. It is important to mention again that the deputies/representatives of the Italian and Hungarian minorities in the National Assembly are elected by all members of the ethnic minority who have the right to vote, irrespective of whether they live in the ethnically mixed area or elsewhere in Slovenia. In the latter case, members of the Italian or Hungarian ethnic minority are placed on the electoral register of citizens who are members of the Italian or Hungarian minorities at their written request.

The creation of the special electoral register of citizens who are members of ethnic minorities was subjected to a constitutional enquiry at the initiative of the National Assembly. The Constitutional Court of the Republic of Slovenia decided that the Law on the Records of Voting Rights (Official Gazette of the Republic of Slovenia, No. 46/52) is unconstitutional in that it does not define the criteria «according to which the commissions of the Italian and Hungarian self-governing ethnic communities decide which voters to place on the special electoral register of citizens who are members of the autochthonous ethnic communities».²⁷

The Constitutional Court declared that autochthony is attributed to

25. Law on the Records of Voting Rights (Official Gazette of the Republic of Slovenia No. 46/92) Article 19.

26. Law on the Records of Voting Rights (Official Gazette of the Republic of Slovenia No. 46/92):

Article 20: «The commission mentioned in the preceding article shall consist of a president and two members. The commission for the formation of the electoral register must be established and its president and members appointed at the latest five days after the elections have been called».

Article 21: «The electoral register of citizens who are members of the Italian or Hungarian ethnic communities shall be confirmed by the president and members of the commission for the formation of the electoral register, with the hand and seal of the appropriate self-governing ethnic community. The commission submits the electoral register to the competent body for approval within 15 days from the day the elections were called».

27. Constitutional Court. Decision 844 on establishing the constitutionality of the Law on Elections to the National Assembly, the Law on Local Elections, article 22 of the Law on the Records of Voting Rights, paragraph 4 of article 53, article 134 and paragraph 2 of article 140 of the Statute of Koper Municipal Council, on establishing an unconstitutional legal loophole in the Law on the Records of Voting Rights, and on the partial rejection of the initiative. Official Gazette of the Republic of Slovenia, No. 20/1998, p. 1308.

the Italian and Hungarian national communities. Therefore, «all special rights with which the Constitution protects the ethnic communities are applied to the members of the autochthonous Italian and Hungarian ethnic communities — and not to all persons declaring themselves to be Italians or Hungarians. Keeping this in mind, it is not enough for the of the special rights (in particular the special voting right) that a person declares himself to be Italian or Hungarian. A constitutionally inadmissible situation would arise if a commission of a self-governing ethnic community had to enrol in the special electoral register every adult citizen who declared himself to be a member of the autochthonous Italian or Hungarian ethnic community. The affiliation with the autochthonous Italian or Hungarian ethnic communities is not only a matter of the individual's will but also a matter of the ethnic community which considers such a person to be its member or not. An arrangement according to which the enrolment into a special electoral register is assured to anyone who declared himself a member of the autochthonous Italian or Hungarian ethnic community would not enlarge the protection of the ethnic communities. Rather it would permit uncontrolled misuse, either for exclusively electoral purposes, or with the intention of distorting the true will of the community in its ordinary activities, at the elections of its own bodies, etc. Such an arrangement would nullify the special rights of the members of the autochthonous Italian and Hungarian ethnic communities».²⁸ The decision of the Constitutional Court was that «the criteria for the determination of affiliation with the autochthonous Italian and Hungarian national communities should be defined by law (...) The legislature was assigned the task of filling this constitutional gap before the next elections to the National Assembly».²⁹

The legislature fulfilled this «commitment» with the adoption of the Law on the Amendment of the Law on the Record of the right to vote, stating that the «Commission of the Self-Governing Ethnic Community enrolls the individuals who are members of the autochthonous national community into the voting registry of the citizens that belong to the Italian or Hungarian national communities. The affiliation with the autochthonous Italian or Hungarian national communities is determined on the basis of the individuals' declaration or on the basis of entry in the voting registry of the members of the Italian or Hungarian national communities at the previous elections. In the event of doubt concerning the validity of the individual's statement, a special determination procedure is to be carried out by the

28. Constitutional Court. 844. Decision on establishing the ..., p. 1313.

29. Constitutional Court. 844. Decision on establishing the ..., p. 1313.

commission in accordance with the law governing general administrative procedure. If the conditions for entry are not met, the commission will issue such a provision. The self-governing ethnic community will regulate more detailed measures for meeting the criteria described in the third paragraph of this article».³⁰

The elected representatives to the National Assembly of the Hungarian and Italian ethnic minorities have a *representative mandate*. When deciding as «ordinary» representatives or when deciding as representatives of the ethnic minority they decide in accordance with their free will.

The *dual voting right* of the members of the ethnic communities has been disputed by a group of members of the majority nationality. They therefore referred this provision of the electoral legislation to the Constitutional Court for adjudication. The Court has ruled that the provision was not unconstitutional. It has declared in its reasoning of the adjudication that «the special voting right of the members of the ethnic community is a departure from the principle of equality of voting rights. The principle of equality of voting rights demands that every voter have an equal number of votes and that those votes have the same value. Voters who have, apart from their general voting right, also a special voting right have two votes at their disposal — their will is taken into consideration twice: in giving a mandate to a deputy of the ethnic community and in the distribution of the mandates of other deputies. The very right of the members of the ethnic communities to elect a deputy irrespective of their number is a departure from the principle of equality of voting rights, and dual voting is a step further away from that principle».³¹

However, the Constitutional Court states further that «the special voting right of members of ethnic communities is an expression of the constitutionally guaranteed protection of these communities and their members. Although this is a departure from the principle of equality of voting

30. The Law on the Amendment of the Law on the Voting Registry (Official Gazette of the Republic of Slovenia, No. 72/2000 1st article).

Article 1: The council of the Pomurje Hungarian national self-governing national community adopted on 8.2000 special rules of procedure on the criteria for meeting the conditions for affiliation with the Hungarian national community. In the 2nd paragraph of these rules, the following standards for affiliation were set: the integration of the individual in the activities of the Hungarian national community and; integration and inclusion in other aspects of the social and cultural life of the Hungarian community and appertaining to the Hungarian language and culture.

31. Constitutional Court. Decision 844. Decision on the establishment of the constitutionality... (Official Gazette of the Republic of Slovenia, No. 20/1998) p. 1312.

rights, such «positive discrimination» is not unconstitutional; on the contrary, the Constitution places the demand on the legislature to institutionalise such measures in the legislation. Seeing that the Constitution itself provides for and demands a departure from the principle of equality of the voting right (positive discrimination), there was no need for the Constitutional Court to weigh the significance of the infringement on the equality of the voting right against the significance of the constitutional value which is achieved by this infringement».³²

Also of interest is the argument of the Constitutional Court on the necessity of the dual voting right for the members of the ethnic communities. If the law «allowed the members of the ethnic communities only one vote and gave them the choice between exercising their general and special right to vote (at the elections for a deputy of the ethnic communities and at the elections for all other deputies), one of those two constitutional rights would be taken away from them. Considering that the Constitution does not restrict the general voting right of the members of the ethnic minorities and at the same time gives them the right to elect a deputy of the ethnic community, the legal establishment of the right to one vote only with the option of choice would result in the fact that the members of ethnic communities would be forced to choose between their two constitutional rights: the general right to vote and the right to be directly represented. By choosing one of those two rights they would automatically forfeit the other. Such an arrangement would be unconstitutional, since it would deprive the members of ethnic communities of one right or the other — according to their own choice».³³ The dual right to vote of the members of the ethnic communities means «a double departure from the principle of equality of voting rights, however, such a departure is foreseen and demanded in the constitution itself as a form of the so-called positive discrimination».³⁴

What kind of relations are established between the elected representatives of the ethnic minorities to the National Assembly and the self-governing communities? The question is interesting because we are discussing the relations between two formally independent institutions. The representative which was elected to the National Assembly is not the representative of the self-governing ethnic community, but the representative of the whole ethnic minority. As such the representative is not bound by the de-

32. Constitutional Court. *Loco citato*, p. 1313.

33. Constitutional Court. *Loco citato*, p. 1313.

34. Constitutional Court. *Loco citato*, p. 1313.

cisions of the self-governing ethnic community. On the other hand, the self-governing ethnic communities are officially recognised interlocutors with the State in the matters regarding different aspects of ethnic minority life. These institutions are able to present the official opinions and suggestions to the State, but in reality they have little political power to realise these proposals: persuasion and arguing, perhaps searching for some kind of help from their kin-nation are the only methods of political action of the self-governing ethnic communities. On the other hand, the elected representative of the ethnic minority to the National Assembly is not the exclusive representative of the ethnic minority, but he is (in reality) the only one who has the possibility to participate in an active way in the process of decision making — he/she has the possibility to propose amendments and corrections to the proposed legal solutions and in any case, he is the only one with the possibility to veto the decisions in the National Assembly regarding special ethnic minority rights.

2.2. *Ethnic minority representation in municipal councils*

As an analogy to solutions at the state level, the (dual) voting right of the ethnic community members is also granted at the elections of ethnic minority members to the municipal councils. In article 39, the Law on Local Self-government³⁵ stipulates that «both ethnic communities in ethnically mixed areas inhabited by the members of the Italian or Hungarian ethnic community (as defined by law) shall have at least one representative on the municipal council». Legal provisions on the mandatory presence of the ethnic community members in the municipal councils are defined in more detail in the statutes of the following municipalities: Izola/Isola,³⁶ Piran/Pirano,³⁷ Koper/Capo-

35. Law on Local Self-government (Official Gazette of the Republic of Slovenia, No. 72/93).

36. Statute of the Isola municipality (Official Bulletin of municipality Isola, 15/1999) paragraph 1 of article 30: «The municipal council shall consist of 23 members, of which the Italian ethnic minority shall have two.»

37. Statute of the Piran municipality (Official Bulletin, 10/1999) paragraph 2 of article 15: «The municipal council shall consist of 25 members. On the basis of their special voting rights, Italian ethnic minority members shall elect three of those members of the municipal council.»

38. Statute of the Koper municipality (Official Bulletin 9/95), article 28: «The municipal council shall consist of 32 members. Italian ethnic minority members shall elect three of those members of the municipal council.»

distria,³⁸ Moravske Toplice,³⁹ Dobrovnik/Dobronak,⁴⁰ Hodoš/Hodos,⁴¹ Šalovci,⁴² Lendava/Lendva.⁴³

The procedure for electing the ethnic community representatives to the municipal councils is laid down in the Law on Local Elections. The Law provides that «the right to elect and be elected a member of the municipal council — as a member of the Italian or Hungarian ethnic community — pertains to the members of these ethnic communities».⁴⁴ The voting right of the ethnic minority members is guaranteed in a «special municipal electoral register of inhabitants — members of both ethnic communities».⁴⁵ Elections for the municipal council members from the ranks of ethnic minorities are conducted according to the majority principle⁴⁶ in special electoral districts comprising the territory of the municipalities.⁴⁷ For the election of the members of the municipal council — as representatives of the Romany community — a special municipal electoral commission⁴⁸ is

39. Statute of the Moravske Toplice municipality (Official Gazette of the Republic of Slovenia, 11/1999), paragraph 2 of Article 14: «The municipal council shall consist of 17 members; three of these shall be members of the Hungarian ethnic community.»

40. Statute of the Dobrovnik municipality (Official Gazette of the Republic of Slovenia, 34/1999) states in article 21: «The municipal council is elected on the basis of general and equal voting rights with direct and secret voting. Citizens with permanent residents in the municipality have voting rights. Also elected by secret ballot is a representative of the Hungarian national community on the basis of a special voting right. Also elected by secret ballot are the members of the Slovene nation, who represent a minority in the municipality.»

41. Statute of the Hodoš municipality (Official Gazette of the Republic of Slovenia, 47/1999), article 14, paragraph 2: «The municipal council consists of seven members. The representatives of the Hungarian and the Slovene national community, since they represent a minority in the municipality, each have one representative in the council. The representative of the Slovene and Hungarian national community on the municipal council have the right to veto when deciding on matters concerning the position of their nationality communities.»

42. Statute of the Šalovci municipality (Official Gazette of the Republic of Slovenia, 13/1999) There are no specific provisions in the statute as there are in other statutes of nationally mixed municipalities. However, it may be discerned, from paragraph 2 of article 62, that a representative of the Hungarian national community is elected to the municipal council (article 62, paragraph 2: «a representative of the Hungarian national community has the right to use his mother tongue when working in the municipal council and its agencies.»)

43. Statute of the Lendava municipality (Official Gazette of the Republic of Slovenia, 26/1999), paragraph 2 of article 15: «The municipal council shall consist of 22 members; two of these shall be members of the Hungarian ethnic community.»

44. Law on Local Elections (Official Gazette No. 72/93), article 6.

45. Law on Local Elections (Official Gazette No. 72/93), paragraph 2 of article 8.

46. Law on Local Elections (Official Gazette No. 72/93), paragraph of article 10.

47. Law on Local Elections (Official Gazette No. 72/93), article 23.

48. Law on Local Elections (Official Gazette No. 72/93), article 33.

appointed, in which at least one member and one deputy member must be the members of that ethnic community.⁴⁹ The candidates for the members of the municipal council — as representatives of the Italian or Hungarian ethnic communities — are chosen by at least 15 signatures of the voters — members of the ethnic minority having permanent residence in the municipality.⁵⁰

What kind of a mandate do the elected members of the ethnic minorities have? It has been mentioned before that the representatives of the minorities elected to the National Assembly have a representative mandate. By contrast the representatives elected at the local level have an *imperative mandate* in the matters concerning the special rights of minorities. In spite of being elected by all members of an ethnic minority with a permanent residence in a particular municipality, the minority representatives are bound by the decisions approved by the Municipal self-governing ethnic communities.

2.3. *Self-governing ethnic communities*

The establishment of self-governing ethnic communities — the central political institutions of the ethnic communities — was enacted by the Constitution (paragraph 2 of Article 64). On the basis of that provision, the special Law on self-governing Ethnic Communities was adopted.⁵¹ That Law defines the purposes and duties of the self-governing communities,⁵² the manner and procedures for the realisation of these duties,⁵³ the organisa-

49. Law on Local Elections (Official Gazette No. 72/93), article 36.

50. Law on Local Elections 49 (Official Gazette No. 72/93), article 49.

51. Law on Self-governing Ethnic Communities (Official Gazette of the Republic of Slovenia No. 65/94).

52. Law on Self-governing ethnic communities (Official Gazette No. 65/94), article 3: «The Self-governing ethnic communities shall accomplish the following tasks:

— in accordance with the constitution and law, independently decide on matters in their jurisdiction;

— in accordance with the law, give an accord on matters relating to the safeguarding of special rights of national communities, which are decided together with the agencies of self-governing local communities;

— study and deal with issues concerning the position of national communities, take stands and present suggestions and incentives to the appropriate agencies;

— encourage and organize activities that contribute to the preservation of the national identity of the members of the Italian and Hungarian national community.»

53. Law on Self-Governing ethnic communities (Official Gazette No. 65/94), article 4:

«The Self-Governing ethnic communities fulfil the tasks from the previous article by:
— encouraging and organizing cultural, research, informative, publishing and economic activities for the development of national communities;

tion of the self-governing communities, their relationship to the bodies of local self-government (municipalities), the relationship with state bodies and finally their financing. Of course, the formation of the self-governing ethnic communities does not mean that members of the ethnic communities have no opportunities for the establishment of other (political) organisations to express their political affinities and will, or to protect and promote their ethnic identity. However, if such organisations are created, they cannot replace the self-governing ethnic communities in their role. The self-governing ethnic communities remain, on the basis of the constitutional provisions and the appropriate laws, the only legal partner in the dialogue between the ethnic minorities and the State.

Self-governing ethnic communities have been established in every municipality⁵⁴ inhabited by the members of the autochthonous ethnic minorities. The municipal self-governing ethnic communities have then established the «national» self-governing ethnic communities: one for the Italian and one for the Hungarian ethnic minority. These communities are the central partners in the relationship between the national minorities and the State. In accordance with the law, the self-governing ethnic communities present to the National Assembly, the government and other state agencies suggestions, initiatives and opinions on all matters that are under the jurisdiction of the self-governing ethnic communities. The provision of the law stating that all State agencies must, «when deciding on matters concerning the position of the members of the ethnic minorities, consult beforehand the self-governing ethnic communities»⁵⁵ is very important.

-
- founding organizations and public institutions;
 - monitoring and encouraging the development of upbringing and education for the members of national communities and, in accordance with the law, cooperating in the planning and organizing of the educational work and in the forming of educational programmes;
 - developing contacts with the kin-nation, the members of national communities in other states and with international organizations;
 - in accordance with the law, perform tasks from the state jurisdiction;
 - accomplishing other tasks in accordance with the statute.

54. The municipalities are required to ensure premises and other financial means necessary for the functioning of the municipal self-governing ethnic communities. Financial means for the functioning of the municipal self-governing ethnic communities are provided in the municipal budget, and financial means for the functioning of the Italian and Hungarian self-governing ethnic communities in the Republic of Slovenia are provided in the state budget.

55. Law on Self-managing Ethnic Communities. Official Gazette of the RS, No. 65/94, article 15, 2nd paragraph.

A similar provision is also valid at the local self-management level. The self-governing ethnic communities submit to the local self-government suggestions and initiatives concerning the position of ethnic minorities and the preservation of the ethnically-mixed areas' particularities. The duty of the self-management communities is to handle these initiatives and to form an opinion on them. The competences of the self-governing ethnic communities do not, however, include only the formation of opinions and incentives. The provision stipulating that the communities must be in accordance with the affairs concerning the national minorities is even more important. This accord must be acquired before deciding on issues concerning the special rights of nationalities «by the representatives of the national minorities that were elected to the councils of the self-governing local communities».⁵⁶

The Law on Self-governing Ethnic Communities mentions two other important fields of activity: firstly, the right of the self-governing ethnic communities to co-operate with «kin-nations and their states, with members of the ethnic communities in other states and with international organisations»;⁵⁷ and secondly, the right that «members of the self-governing ethnic communities *participate in the preparation of interstate agreements* relating to the status of ethnic minorities and the protection of their rights».⁵⁸ With this provision, the circle of areas of political participation of the representatives of national communities, which spans the regulation of their own status at local, national and even international level, is completed. It should be mentioned that the members of national communities even have the right to join political parties of the majority nation and to stand as candidates, to elect and be elected on the party lists.

3. THE USE OF LANGUAGE

In the model of protecting the minority communities the right to use and preserve the minority languages, in both private and public life, represents an essential right of the minorities. The problem of the usage of the language of national and/or linguistic minorities was treated with ut-

56. Law on Self-managing Ethnic Communities. Official Gazette of the RS, No. 65/94, article 13.

57. Law on Self-managing Ethnic Communities. Official Gazette of the RS, No. 65/94, article 16.

58. Law on Self-governing Ethnic Communities. Official Gazette of the RS, No. 65/94, article 17.

most attention in the European Charter for Regional or Minority Languages.

It was mentioned before that Slovenia signed the European Charter for Regional or Minority Languages on 3rd July 1997, ratified it on 19th July 2000, and it was published in the Official Gazette on 4th August 2000. On depositing the ratification instruments, Slovenia stated that the Charter was to come into force on 1st January 2001.

Upon depositing the ratification instruments of the Charter for Regional or Minority Languages, the Republic of Slovenia informed the general secretary of the Council of Europe that on its national territory the Hungarian and Italian languages are the regional or minority languages. It was also noted that the provisions of the first through fourth paragraphs of article 7 will apply *mutatis mutandis* to the Romany language. The inhabited area of Italian-speaking citizens includes the ethnically-mixed areas of three coastal municipalities (these are defined in the municipalities' statutes) in the western part of Slovenia: Koper/Capodistria,⁵⁹ Izola/Isola,⁶⁰ Piran/Pirano;⁶¹ while Hungarian-speakers live in five municipalities in Prekmurje, in the eastern part of Slovenia next to the border with Hungary: Hodoš/Hodos,⁶² Šalovci,⁶³ Moravske Toplice,⁶⁴ Dobrovnik/Dobronak,⁶⁵ Lendava/Lendva.⁶⁶

59. Statute of the Koper municipality (the Official Bulletin, No. 40/2000), article 7: «On the nationally mixed area of the municipality encompassing the settlements of Ankaran — Ancarano, Barizoni — Barisoni, Bertoki — Bertocchi, Bošamarin — Bossamarino, Cerej — Cerei, Hrvatini — Crevatini, Kampel — Campel, Kolomban — Colombano, Koper — Capodistria, Prade, Premančan — Premanzano, del naselja Spodnje Škofije (Valmarin), Šalara — Salara and Škocjan — San Canzano, where members of the autochthonous Italian national community live, the official languages are Slovene and Italian».

60. Statute of the Izola municipality (the Official Bulletin, No. 15/2000), article 4, 3rd paragraph: «on the nationally mixed area (bilingual area), encompassing the town of Isola and the settlements of Dobrava and Jagodje, the Slovene and Italian language are equal in public and private life».

61. Statute of the Piran municipality (the Official Bulletin, No. 10/1999), article 3: «On the nationally mixed area of the municipality encompassing the settlements of Piran of Portorož, Lucija, Strunjan, Seča, Sečovelje, Parecag and Dragonja (the bilingual territory), on which members of the Italian national community live, the Slovene and Italian languages are equal in public and private life».

62. Statute of the Hodoš municipality (Official Gazette, No. 47/1999), article 1: «the municipality Hodoš is a self-governing local community founded by law on the area of the following nationally mixed settlements, in which the members of the Hungarian national community live: Hodoš — Hodoš, Krplivnik — Kapornak».

63. Statute of the Šalovci municipality (Official Gazette, No. 13/1999), article 2: «a part of the area of the municipality, on which members of the Hungarian national commu-

According to the data of the 1991 census, 9,240 persons declared their mother tongue to be Hungarian (with 7,698 living in the nationally mixed municipalities), while 4,009 did so for the Italian language (with 3,543 in nationally-mixed municipalities). The mother tongue is chosen entirely subjectively. This principle, which also applies for choosing one's ethnic affiliation, means that the answer given by the questioned person is noted without any additional testing (for example, language knowledge).

Slovenia did not assign any non-territorial languages.

Slovenia obligated itself according to the article 4 of the Law on ratification to use for the Hungarian and Italian languages the following paragraphs and sub-paragraphs from the part III of the Charter:⁶⁷

«From article 8:	From article 10:
Paragraph 1 a (i, ii), b (i, ii, iii), c (i, ii, iii), d (i, ii, iii), e (iii), f (iii), g, h, i	Paragraph 1
Paragraph 2.	Paragraph 2
From article 9:	Paragraph 3
Paragraph 1 a,b,c,d	Paragraph 4
Paragraph 2 a, b, c	Paragraph 5
	From article 11:

nity live, is ethnically mixed. The nationally mixed area of the municipality is the settlement of Domanjševci — Domonkosfa.

64. Statute of the Moravske Toplice municipality (Official Gazette, No. 11/1999), article 2, 2nd paragraph: «the settlements of Čičečka vas — Csekefa, Motvarjevci — Szentlászló, Pordašinci — Kisfalu, Prosenjakovci-Pártosfalva and Središče — Szerdahely are inhabited by members of the Hungarian national community.»

65. Statute of the Dobrovnik municipality (Official Gazette, no.34/1999), article 2, 2nd paragraph: «the part of the municipality inhabited by members of the Hungarian national community is ethnically mixed. The ethnically mixed area encompasses the settlements Dobrovnik — Dobronak and Žitkovci — Zsitkóc.»

66. Statute of the Lendava municipality (Official Gazette, No. 26/1999), article 1: «the Lendava municipality is a self-governing local community founded by law in the areas of the following settlements: Banuta-Bánuta, Benica, Čentiba-Csente, Dolga vas-Hosszúfalu, Dolgovaške gorice — Hosszúfaluhegy, Dolina pri Lendavi-Völgyfalu, Dolnji Lakoš-Alsólakos, Gaberje-Gyertyános, Genterovci-Göntérhaza, Gornji Lakoš-Felsőlakos, Hotiza, Kamovci-Kámaháza, Kapca-Kapca, Kot-Kót, Lendava-Lendva, Lendavske gorice-Lendvahegy, Mostje-Hidvég, Petišovci-Petesháza, Pince-Pince, Pince marof-Pince major, Radmožanci-Radamos, Trimlini-Hármasmalom, part of Brezovec. The ethnically mixed area of the municipality where members of the Hungarian ethnic community also live comprises the above-named settlements, except for the settlements of Benica, Hotiza and part of Brezovec.

67. This chapter is entitled «Measures to promote the use of regional or minority languages in public life in accordance with the undertakings entered into under article 2, paragraph 2.

Paragraph 1 a (i), e (i)
Paragraph 2
Paragraph 3
From article 12:
Paragraph 1 a, d, e, f,
Paragraph 2

Paragraph 3
From article 13:
Paragraph 1
Paragraph 2
From article 14:
Paragraphs a, b.

In accordance with paragraph 5 of article 7 of the Charter, the Republic of Slovenia will apply the provisions of the first through fourth paragraph of article 7 *mutatis mutandis* to the Romany language.⁶⁸

Article 8. Education

Slovenia is obliged to honour the provisions stating that it must «make available *pre-school education* in the relevant regional or minority languages; or (ii) to make available a substantial part of *pre-school education* in the relevant regional or minority languages».⁶⁹

With regard to *primary education*, Slovenia chose the provisions stating that the Parties will « (i) make available *primary education* in the relevant regional or minority languages; or (ii) make available a substantial part of *primary education* in the relevant regional or minority languages; or (iii) provide, within *primary education*, for the teaching of the relevant regional or minority languages as an integral part of the curriculum».⁷⁰

Furthermore it is to ensure appropriate *secondary education* to which item (c) in the European Charter refers. This item binds Slovenia to respect the provisions obligating the Parties to « (i) to make available *secondary education* in the relevant regional or minority languages; or (ii) to make available a substantial part of *secondary education* in the relevant regional or minority languages; or (iii) to provide, within *secondary education*, for the teaching of the relevant regional or minority languages as an integral part of the curriculum».⁷¹

68. Law on the Ratification of the European Charter on Regional or Minority languages, the Official Gazette, No. 17 (4.8.2000), article 4.

69. European Charter for Regional or Minority Languages, article 8, 1st paragraph, a (i, ii).

70. European Charter for Regional or Minority Languages, article 8, 1st paragraph, b (i, ii, iii).

71. European Charter for Regional or Minority Languages, article 8, 1st paragraph, c (i, ii, iii).

Item (d) of article 8 refers to the commitments in the area of *technical and vocational education*. The three provisions Slovenia is obligated to fulfill stipulate that the Parties must (i) make available *technical and vocational education* in the relevant regional or minority languages; or (ii) to make available a substantial part of *technical and vocational education* in the relevant regional or minority languages; or to provide (iii), within *technical and vocational education*, for the teaching of the relevant regional or minority languages as an integral part of the curriculum.⁷²

The commitments in the area of *higher education* are discussed in item (e) of article 8. The provision Slovenia is obligated to fulfill states that (iii) the Parties must if, by reason of the role of the State in relation to *higher education* institutions, sub-paragraphs i and ii cannot be applied, encourage and/or allow the provision of university or other forms of higher education in regional or minority languages or of facilities for the study of these languages as university or higher education subjects».⁷³

The Charter also refers to *adult and continuing education*. Slovenia chose to comply with the provision stating that «(iii) if the public authorities have no direct competence in the field of *adult education*, to favour and/or encourage the offering of such languages as subjects of *adult and continuing education*».⁷⁴

From the first paragraph of article 8 Slovenia also chose to comply with items (g), referring to the «making of arrangements to ensure the teaching of the history and the culture which is reflected by the regional or minority language»;⁷⁵ (h) «to provide basic and further training of the teachers required to implement those paragraphs a to g accepted by the Party».⁷⁶ We should also mention item (i), obligating parties «to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public».⁷⁷

In accordance with article 8 of the Charter, Slovenia is also bound to

72. European Charter for Regional or Minority Languages, article 8, 1st paragraph, d (i, ii, iii).

73. European Charter for Regional or Minority Languages, article 8, 1st paragraph, e (iii).

74. European Charter for Regional or Minority Languages, article 8, 1st paragraph, f (iii).

75. European Charter for Regional or Minority Languages, article 8, 1st paragraph, (g).

76. European Charter for Regional or Minority Languages, article 8, 1st paragraph, (h).

77. European Charter for Regional or Minority Languages, article 8, 1st paragraph, (i).

exercise the 2nd paragraph that also offers the possibility of education in territories where regional or minority languages are not traditionally used. The state Parties have obligated themselves to, if that is the case, «allow, encourage and ensure instruction in regional or minority languages or regional or minority language instruction on all appropriate levels of education, if this is justified by the number of users of regional or minority languages».⁷⁸

According to the Constitution, Slovenia has preserved the basic outline of the educational system for ethnic community members which had shown itself in the post-war era to be the most effective and suitable public medium for the preservation and development of the ethnic identity of the ethnic communities, while at the same time actively promoting the ideas of tolerance of ethnic differences and peaceful coexistence in the ethnically mixed areas. These two elements can be discerned from the provisions of the Law on the Special Rights of the Members of the Italian and Hungarian Communities in the Field of Education and Upbringing. In article 3 (Objectives) it is stated that the «upbringing and education in kindergartens and schools where the Italian language is used and in bilingual kindergartens and schools on ethnically-mixed areas include, in addition to the objectives listed in the regulations in the field of upbringing and education, also the following objectives:

- the preservation and development of the Hungarian or Italian languages and the culture of the Italian or Hungarian national communities,
- the development of linguistic capabilities and aptitudes in the first and second language (for the members of the national communities the first language is Italian or Hungarian, and the second Slovene),
- the cultivation of knowledge about the historical, cultural and natural heritage of the Italian or Hungarian national communities and their kin-nations,
- the cultivation of knowledge about the affiliation to the Italian or Hungarian national communities and the preservation of their own cultural traditions,
- the cultivation of respect and understanding of national and cultural diversity, of cooperation between the members of the Slovene nation and the members of the Italian or Hungarian national communities

78. European Charter for Regional or Minority Languages, article 8, 2nd paragraph.

and the development of skills required to live and coexist in an ethnically mixed area,

- informing about the position of the Italian or Hungarian national communities in neighbouring states and the creation of ties and cooperation with members and institutions of these communities.»⁷⁹

The *compulsory bilingual education system* in the ethnically mixed area of Prekmurje and the *monolingual schools* for the members of the Italian ethnic community in the coastal bilingual area have developed as a result of two totally different historical situations. The educational system for the members of the ethnic communities is a constituent part of a unified state educational system.⁸⁰ This means, among other things, that the State is obliged to ensure the preservation and development of educational institutions and their financing, with the active participation of the ethnic communities or their organisations.⁸¹ An important provision of the Law on the Organisation and Financing of Education states that «the self-governing ethnic community co-establishes public kindergartens and schools which are established for education in the language of the ethnic community or for bilingual education».⁸² Provisions on the participation of the representatives of national communities (Self-governing ethnic communities) in the establishment and management of schools where teaching is conducted in minority languages can also be found in the proposal of the Law on the Special Rights of the Italian and Hungarian Minority Communities in the Field of Upbringing and Education, in the 12th (the founding) and 13th (the council's composition) articles.

In the bilingual area of municipalities of Hodoš, Šalovci, Moravske Toplice, Dobrovnik and Lendava, where the Hungarian national commu-

79. Law on the Implementation of the Special Rights of Members of the Italian and Hungarian Nationality in the Field of Education (Official Gazette, 35/2001), article 3.

80. Law on the Implementation of the Special Rights of Members of the Italian and Hungarian Nationality in the Field of Education (Official Gazette, 35/2001), article 2: (integration into the system) «The upbringing and the education for the members of the Italian and Hungarian national community is an integral part of the educational system in the Republic of Slovenia and is based on the regulations covering the field of pre-school education, elementary education, lower and higher secondary vocational education, secondary professional and technical education and technical general education, if this is not otherwise regulated by law.»

81. Law on Self-Governing Ethnic Communities (Official Gazette of the Republic of Slovenia No. 65/94), item 3 of article 4.

82. Law on the Organisation and Financing of Education (Official Gazette of the Republic of Slovenia No. 12/96), item 4 of article 41.

nity lives, education is conducted bilingually in kindergartens and primary schools, in both Slovene and Hungarian languages. These kindergartens and schools are visited together by children (pupils) of both Slovene and Hungarian nationalities. This method enables the children to be familiarised with the language and culture of the other nation as well as their own. The educational activity is conducted in both languages, and children are divided into groups when lessons in mother tongues are being held, which enables more extensive mother language instruction. Bilingual elementary schools were attended by 986 pupils year 2001/02.

The number of pupils in elementary schools is demonstrated in the following chart:

<i>Elementary school</i>	<i>Number of pupils</i>
1. The Lendava Bilingual Elementary School I	687
the central school	602
the branch school in Gaberje	35
the branch school in Petišovci	10
the branch school in Dolina	0
the branch school in Čentibi	40
2. The Lendava Bilingual School II (elementary school with an adapted programme)	40
3. The Bilingual Elementary School of Vlaj Lajoš in Genterovci	88
4. The Dobrovnik Bilingual Elementary School	84
5. The Prosenjakovci Bilingual Elementary School	87
the central school	72
the branch school in Domanjševci	8
the branch school in Hodoš	7
<i>Total:</i>	986

In the ethnically-mixed area of Prekmurje the following kindergartens are functioning and the number of children that attended them in school year 2000/2001 is: the Kindergarten of Lendava, attended by 242 children, the kindergarten class of the Prosenjakovci Bilingual Elementary School, attended by 26 children, 2 classes within the Moravske Toplice kindergarten, attended by 21 children, and 2 classes in the kindergarten of Dobrovnik Elementary School were attended by 27 children.

After the elementary school students can attend the Bilingual High School of Lendava. The pupils that do not attend the Bilingual High School and wish to continue learning the Hungarian language are guaranteed free education of the mother tongue even outside the bilingual area.

The Bilingual High School of Lendava has 17 class groups attended by 287 students in the school year 2001/2002. The school dedicates 7 class groups to the general university preparatory programme, 6 class groups to the economics programme, 3 class groups to the salesperson programme and 1 class group to the engineering programme.

The Slovene and Hungarian languages are both continuously present in the study process. The material on the Hungarian history, culture and geography is added to the appropriate Slovene curriculum. Most school books are bilingual. Administration in bilingual schools as well as relations with the public and with parents of the students are bilingual. Documents issued by the bilingual school institutions are also bilingual. The special rapporteur of the Council of Europe, C ezar B ırzea, who visited Slovenia in November 1995, wrote in his report that «the Slovenian system of education in the ethnically mixed area is unique. It is of great interest not only because it enables total implementation of special minority rights in accordance with international standards, but also because of the manner in which these rights are implemented. Its guideline is interculturalism, stressing true coexistence and a dual cultural identity of the children who attend bilingual schools».⁸³

There are, however, differing views on the system of education in the ethnically mixed area in Prekmurje. The essence of such views is the desire to form in Prekmurje a system of education similar to that in the ethnically mixed area in the Coastal Region. Demands to this effect (under a different legal title) even reached the Constitutional Court of the Republic of Slovenia, which rejected them. In its decision the Constitutional Court stated that «the Constitution gives the State the responsibility for the establishment of bilingual schools. The choice of areas where such schools will be established, and areas where the special rights of the autochthonous minority in the field of education will be guaranteed by the establishment of the minority schools, is within the jurisdiction of the legislature. Historical circumstances have dictated the organisation of bilingual education in the areas inhabited by the Hungarian ethnic minority, but not in the areas in-

83. A Programme of Case Studies Concerning the Inclusion of Minorities as Factors of Cultural Policy and Action. Bilingual Education in Slovenia. Council of Europe, Strasbourg, 1996, p. 24.

habited by the Italian ethnic minority. The preservation of the network of bilingual schools means respecting the obligations which Slovenia accepted with the ratification of the international agreements and is not unconstitutional».⁸⁴

For the members of the Hungarian ethnic minority, the continuation of education in their mother tongue is difficult, since the demographic situation does not allow for organisation of tertiary instruction in the Hungarian language. Hungarian language and culture may be studied at the University of Maribor and at the University of Ljubljana. At the University of Maribor there are also courses for teachers in bilingual kindergartens and primary schools. As for the desire to study other courses in the mother tongue, «assistance» must be sought at the universities in Hungary. The Convention on Providing the Special Rights of the Slovenian Ethnic Minority in the Republic of Hungary and the Hungarian Ethnic Community in the Republic of Slovenia (Official Gazette of the Republic of Slovenia — MP, No. 6/93) allows for such possibility in article 2. Opportunities for the study to members of the Hungarian ethnic community in Hungary, as well as for members of the Slovenian ethnic community in Slovenia, are also offered by the Agreement on Cooperation in the Field of Culture, Education and Science between the Republic of Slovenia and the Republic of Hungary, which the two countries concluded in 1992.⁸⁵

The Agreement served as a foundation for the preparation of the Agreement between the Government of Slovenia and the Government of Hungary on the Mutual Recognition of Diplomas and Certificates, that the States signed in 1999. Slovenia ratified it on 10th May 2000 and it was published in the Official Gazette no. 44/2000.

Cooperation with educational institutions of the kin-nation is also foreseen in the Law on the Special Rights of the Italian and Hungarian national communities in the Field of Education. In article 4 (cooperation with the kin-nation's institutions) it stipulates: «to fulfil the objectives, set by this law, and in accordance with international agreements, public kindergartens or schools in the language of national communities and bilingual kindergartens and schools (in the following text: kindergartens and schools) shall cooperate with the appropriate institutions of the kin-nation in neighbouring states».

84. Constitutional Court. Decision on the finding that paragraph 3 of article 3 of the Law on the Organisation and Financing of Education is not unconstitutional. Official Gazette of the Republic of Slovenia, No. 77/1998.

85. Agreement on Cooperation in the Field of Culture, Education and Science between the Republic of Slovenia and the Republic of Hungary (Official Gazette of the Republic of Slovenia, International agreements, No. 6/1993).

In accordance with the constitutional provision on the implementation of the special rights of the national communities outside the ethnically-mixed area, the members of the Hungarian community are entitled to free Hungarian language instruction in Murska Sobota. The teaching of Hungarian shall be organised if no less than 7 students are enrolled in the class. This solution complies with the provision of the 2nd paragraph of article 8 of the European Charter. In the Law on the Special Rights of the Italian and Hungarian national communities in the Field of Education, article 9 refers to the minority language instruction outside the ethnically-mixed area (the instruction of the minority language outside the ethnically-mixed area). «The students and apprentices that finish an elementary school in the minority language or a bilingual elementary school and enrol in a vocational school, a technical high school or general secondary schools outside the nationally mixed areas, must be provided with the teaching of the minority language as an extra-curricular activity by these schools, individually or with other schools. The teaching of this language shall be organized, if no less than 5 students or apprentices choose to enrol, and it must be free. A group of students or apprentices can also be formed among the students or apprentices that attend school in different programmes and different schools in the same region.»

For members of the *Italian ethnic community*, a monolingual school system was developed. Instruction in kindergartens, primary and secondary schools is conducted in the Italian language, while the study of Slovenian is compulsory.⁸⁶ Italian is also the schools' administrative language and the language of communication with the parents. The teaching staff and other employees in the schools with Italian as the language of instruction are persons whose mother tongue is Italian. The greater part of the teaching staff are Slovenian citizens, some 10% are citizens of the Republic of Croatia, and some 4% are Italian citizens. Teaching material is prepared in Slovenia, and some is imported from Italy. Some material used in the teaching process is suitably adapted to the needs of the Italian ethnic community in Slovenia and is published by EDIT publishers in Rijeka (Croatia).

Schools in the *Italian language* function in the municipalities of Izola, Koper and Piran. In each municipality there is a central elementary school, with branches situated in smaller towns. In the school year 2001/2002 435

86. Statute of the Koper municipality (the Official Bulletin, No. 40/2000), article 111, 1st paragraph: «In all schools in the area of the Koper municipality the study of the Slovene language is compulsory for the members of the Italian national community.»

pupils attended elementary schools in the Italian language, and the number of students in each school is evident from this chart:

<i>Elementary school</i>	<i>Number of pupils</i>
1. Dante Alighieri Elementary School Isola	102
2. Pier Paolo Vergerio il Vecchio Elementary School Koper	182
the central school	140
the branch school in Semedeli	14
the branch school in Bertoki	12
the branch school in Hrvatini	16
3. The Vincenzo de Castro Elementary School Piran	151
the parent school	61
the branch school in Lucija	49
the branch school in Sečovlje	36
the branch school in Strunjan	5
<i>Total:</i>	435

In the ethnically mixed area of Slovenska Istria, educational activities for the members of the Italian national community are conducted in the Italian language. In the school year 2000/2001 such kindergartens were attended by 264 children, namely: the kindergarten of Dante Alighieri Elementary School in Isola had 61 children, the La Coccinella kindergarten in Lucija had 82 children and the Delfino Blu kindergarten based in Koper had 121. The kindergartens have branches in every town where there is an elementary school or any one of its branches.

In Slovenska Istra three Italian language high schools exist, namely two general secondary schools and one technical school. The General Secondary School of Antonio Sema in Piran had 78 students in 4 class groups in the school year 2001/2002, while the General Secondary School of Gian Rinaldo Carli in Koper had 78 students in the same school year. The Pietro Coppo High School in Izola had the following programmes: economics, business secretary studies, salesperson, metallurgy and auto mechanics. In the school year 2001/2002 it was attended by 133 students in 16 class groups.

In continuing their education at the university level, students of Italian nationality encounter similar problems as their Hungarian peers.

They may study Italian language and literature at the Faculty of Arts and Humanities at the University of Ljubljana and at the Department of Italian Language and Literature at the Faculty of Education at the University of Ljubljana, based in Koper. The same institution also educates teachers for kindergartens and the first four years of Italian language schools. Members of the Italian ethnic community may then continue their studies at the universities in Croatia (Rijeka, Pula) or in Italy. They must also turn to the universities in Italy if they wish to use Italian as the language of instruction in other non-linguistic fields. The Agreement on Mutual Recognition of Degree Certificates which Slovenia and Italy concluded in 1995⁸⁷ is the legal framework which facilitates the study of the members of the Italian ethnic community at the Italian universities, and analogously the study of the members of the Slovenian minority in Italy, in Slovenia.

Schools with Italian as the language of instruction are not closed institutions strictly limited to the members of the Italian minority. Although they are primarily intended for schooling of the children of the Italian ethnic community, children of Non-Italian background may also enrol. This option may be an important developmental element for these schools, since in the future they may have difficulty filling their existing capacities, because of the demographic decline of the Italian minority.⁸⁸ They will, of course, have to be competitive in quality with the Slovenian language schools. And finally, let us repeat the important provision of the Slovenian model of dealing with the «ethnic minority question»: in educational institutions in the ethnically mixed area where *instruction is in Slovenian language, classes in the language of the ethnic community are compulsory*.⁸⁹ Studies have shown that such an educational model which offers the members of the majority nation and members of the ethnic community at least a receptive knowledge of the language of the other

87. Memorandum of Understanding on the Mutual Recognition of Slovenian and Italian Degree Certificates and Professional Qualifications. Official Gazette of the Republic of Slovenia, International Agreements, No. 4/1996.

88. Research performed in schools with Italian as the language of instruction in Slovenia and Croatia has shown that in those schools there are some 25% of students who are of Italian nationality and whose mother tongue is Italian, 15-20% of the children are of Slovenian or Croatian origin, while for the remainder, ethnic affiliation and mother tongue are not the same. Loredana Bogulin-Debeljuh: *L'Identità Etnica: Gli Italiani dell'Area Istro-Quarnerina*. Etnia-V, Rovigno. Centro di Ricerche Storiche. 1994.

89. Statute of the Koper municipality (the Official Bulletin, No. 40/2000), article 111, 2nd paragraph: «In all Slovene schools in the nationally mixed area of the municipality the study of the Italian language is a compulsory subject.»

ethnic group is supported by the greater part of the population of the ethnically mixed area.⁹⁰

Article 9. Judicial authorities

Another field of use of language of national communities in the European Charter refers to the judicial authorities. Slovenia has bound itself to implement the provisions, stating that it shall, for the districts where the number of national or minority languages users and the position of the individual language justifies the below listed provisions, and where the below listed benefits do not, in the judge's opinion, hinder the regularities of the proceedings:

«(a) in criminal proceedings:

- to provide that the courts, at the request of one of the parties, shall conduct the proceedings in the regional or minority languages; and/or
- to guarantee the accused the right to use his/her regional or minority language; and/or
- to provide that requests and evidence, whether written or oral, shall not be considered inadmissible solely because they are formulated in a regional or minority language; and/or
- to produce, on request, documents connected with legal proceedings in the relevant regional or minority language,
- if necessary by the use of interpreters and translations involving no extra expense for the persons concerned».⁹¹

The use of a minority language is also guaranteed in

(a) civil proceedings:

«[The parties shall] provide that the courts, at the request of one of the

90. See for example the results of the research project *Interethnic Relations and Ethnic Identity in Slovenian Istria: (Koper/Capodistria, Piran/Pirano, Izola/Isola): a comparative analysis of ethnic identity elements of the population in contact areas of the border regions in Slovenia, Austria, Italy and Hungary* (project leader Albina Nečak-Lük), Ljubljana, INV 1996.

91. European Charter for Regional or Minority Languages, article 9, 1st paragraph, a (i, ii, iii, iv).

parties, conduct the proceedings in the regional or minority languages; and/or

- to allow, whenever a litigant has to appear in person before a court, him to use his regional or minority language without thereby incurring additional expense; and/or
- to allow documents and evidence to be produced in the regional or minority languages,
- if necessary by the use of interpreters and translations».⁹²

The use of language is, in accordance with the European Charter, also guaranteed in proceedings before the administrative courts. To that effect the parties are obligated

- «• to provide that the courts, at the request of one of the parties, conduct the proceedings in the regional or minority languages; and/or
- to allow, whenever a litigant has to appear in person before a court, him to use his regional or minority language without thereby incurring additional expense; and/or
- to allow documents and evidence to be produced in the regional or minority languages,
- if necessary by the use of interpreters and translations».⁹³

Concerning the last provision, referring to the use of interpreters and translations, we should also mention subparagraph d of article 9, stating that the assistance of interpreters and translators shall bear no additional costs to the involved persons.

Slovenia has also bound itself to comply with the second paragraph of article 9, stating that the parties are:

- «• not to deny the validity of legal documents drawn up within the State solely because they are drafted in a regional or minority language; or
- not to deny the validity, as between the parties, of legal documents drawn up within the country solely because they are drafted in a regional or minority language, and to provide that they can be invoked

92. European Charter for Regional or Minority Languages, article 9, 1st paragraph, b (i, ii, iii).

93. European Charter for Regional or Minority Languages, article 9, 1st paragraph, c (i, ii, iii).

against interested third parties who are not users of these languages on condition that the contents of the document are made known to them by the person(s) who invoke(s) it; or

- not to deny the validity, as between the parties, of legal documents drawn up within the country solely because they are drafted in a regional or minority language.»⁹⁴

It is interesting that Slovenia has not bound itself to translate into regional or minority languages the most important internal legal regulations and those which apply directly to these languages' users. Although it is true that many regulations of local communities are also published in the national communities' languages (mostly in Italian), it might be reasonable to consider systematically translating legal provisions that refer specifically to the minority communities' members into the minority languages.

How is the use of the minority languages regulated in the activities of judicial institutions in Slovenia?

The Law on Courts (Official Gazette of the Republic of Slovenia, No. 19/94) stipulates in Article 5 that «in areas where the autochthonous Italian and Hungarian communities reside courts shall operate also in the Italian or Hungarian language, if the party living in this area uses the Italian or Hungarian language. When a court of higher jurisdiction decides on legal remedies in matters in which the court of original jurisdiction used the Italian or Hungarian language as well, it shall issue a decree also translated into the Italian or Hungarian language».

The provisions on the use of the ethnic minority language may also be found in the *Law on Legal Proceedings*,⁹⁵ the *Law on the Changes of the Law on Notary*,⁹⁶ *Law on the Office of Public Prosecutor*,⁹⁷ and the *Law on*

94. European Charter for Regional or Minority Languages, article 9, 2nd paragraph, a, b, c.

95. *Law on Legal Proceedings* (Official Gazette, No. 26/1999) Article 104, par. 1: «Parties and other participants in the proceedings lodge their suits, complaints and other applications in the Slovene language, or in the language of the national community officially in use in the Court. If a party submits a claim in a language that is not in official use in the court, the court shall act according to the provisions in article 108 of this law referring to incomprehensible claims».

96. *Law on Amendments to the Law on the Notariat* (Official Gazette of the Republic of Slovenia No. 48/94), article 1: «In the Law on the Notariat ship (Official Gazette, No.13/94) the 2nd paragraph of article 13 shall be changed so that it states: «In areas where the official language is also Italian or Hungarian, notarial deeds shall be drawn up in both official languages if the party uses the Italian or Hungarian languages.»

97. *Law on the Office of Public Prosecutor* (Official Gazette of the Republic of Slovenia

Penal Proceedings.⁹⁸ The provisions on the operation of the judiciary in the ethnically mixed areas are regulated by the Court Rules in Chapter 5, entitled «Operation of the Courts in areas where the autochthonous Italian and Hungarian ethnic communities reside».⁹⁹ In accordance with those provisions, the courts are obliged to guarantee the equality of the Italian

No. 63/94), Article 6: «Offices of the public prosecutor shall operate in the Slovenian language. In areas where the autochthonous Italian and Hungarian ethnic communities reside, the public prosecutor's office shall also operate in Italian or Hungarian if the proceedings are held before the court or another state body in this language or if the party who lives in this area uses this language in his/her dealings with the public prosecutor.»

98. *Law on Penal Proceedings* (Official Gazette of the Republic of Slovenia No. 63/94), article 6:

«(1) Penal proceeding shall be conducted in the Slovene language.

(2) If, in accordance with the Constitution, the court officially uses the language of the Italian or Hungarian national communities, the penal proceedings can also be conducted in the language of this minority as defined by law.»

Article 7:

(1) Charges, complaints and other claims are submitted to the court in the Slovene language.

(2) On the areas, where members of the Italian or Hungarian national communities reside, the members of these communities can submit claims in the Italian or Hungarian languages, if this language is officially used by the court.

(3) A foreigner, who has been deprived of his/her liberty, has the right to submit claims to the court in his own language, and in other cases foreign citizens can submit claims in their own language only when the condition of reciprocity is met.

Article 9:

(1) Subpoenas, written orders and other writings are distributed by the court in the Slovene language.

(2) A court that officially uses the Italian or Hungarian language as well, also distributes subpoenas in this language, but only distributes written orders and other writings in this language when the court conducts the proceedings in both official languages. The participants in the procedure can abandon their right to the acquirement of written orders and other writings in the Hungarian or Italian language. The denouncement must be noted in the minutes.

99. Rules of Procedure of the Court. Official Gazette of the Republic of Slovenia No. 17/95, Articles 60-69 (operation of the court in an area where the Hungarian and Italian national communities reside):

«Article 60: In an area where the autochthonous Italian and Hungarian national community live and where equality of the Italian or Hungarian languages is guaranteed by constitution or law, the courts must ensure the equality of the Italian or Hungarian languages in accordance with law, if a party residing in this area uses the Italian or Hungarian languages.

Article 61: If only one party is involved in the proceeding or if both parties in the proceeding use the same language, the proceeding shall be conducted only in the language of these parties.

If one of the parties involved in the proceeding uses the Slovene language, and the other

and Hungarian languages in ethnically mixed areas, if the party who lives in this area uses the Italian or Hungarian language. The court proceedings may be conducted monolingually if only one party appears in the proceedings, or if both parties in the proceedings use the same language (the proceedings may be conducted in the Slovenian or Italian or Hungarian lan-

the Italian or Hungarian languages, the proceeding shall be conducted in the Slovene and the Italian or Hungarian languages (in the following text: a bilingual proceeding).

The court shall act in this manner also if the claim by which the proceeding was initiated is composed in the Slovene language, and the party declares before the start of the proceeding that he uses the Italian or Hungarian language.

When the court establishes by the claim with which the party initiated the proceeding, or by the declaration of the client, that the proceeding has to be conducted in the Italian or Hungarian language or bilingually, it makes an appropriate note and marks the cover of the document («It.» or «Ma.»).

If, according to the provisions of the law and the court order, a proceeding would have to be conducted in the Italian or Hungarian language, and the clients state that it should be conducted in Slovene, the proceeding shall be conducted in Slovene. Such a statement from the party has to be noted in the minutes.

Article 62: If a proceeding is conducted only in the Italian or Hungarian language, or bilingually, the clients and other participants are addressed in their own language.

If a participant in the proceeding does not understand the language in which the proceeding is conducted, he has to be provided with an oral translation of what he/she or others are saying, and of documents and other written evidential material.

Article 63: If a proceeding is conducted in the Italian or Hungarian language, the minutes shall be recorded in this language. If a participant in the proceeding does not speak the Italian or Hungarian language, his testimony shall be recorded in the minutes in the official language in which the proceeding is conducted.

Article 64: The minutes in bilingual proceedings are recorded in the language that the parties and other participants are using. Any comment, testimony, statement, etc. has to be translated simultaneously and written in the Slovene and Italian or Hungarian languages.

Article 65: Judicial written orders in a proceeding conducted in the Italian or Hungarian languages and written orders in a bilingual proceeding are always issued in the Slovene and Italian or Hungarian languages.

Article 66: If in a proceeding conducted in the Italian or Hungarian languages or bilingually, an ordinary or extraordinary legal measure is filed, the court on the 1st level ensures the translation of the legal measure and of the entire document in the Slovene language before the deposition of the document.

Article 67: All costs incurred by conducting the proceeding in the Slovene or Italian languages or bilingually, are allocated from the funds for the court's operation and cannot be a burden to the clients.

Article 68: The Ministry of Justice is responsible for the education of judges and other personnel for conducting bilingual procedures.

A bilingual procedure can only be conducted by a judge or a professional co-operator that has successfully passed a special exam in the Italian or Hungarian languages before a commission of the Ministry of Justice, or if he holds a university degree in the Italian or Hun-

guage only); but if one of the parties uses the Slovenian and the other Italian or Hungarian, the proceedings must be conducted in the Slovenian and the Italian or Hungarian languages (bilingual proceedings). During the proceedings, discussions with the parties are conducted in their language. In the recording of the minutes the same principle is applied: if the proceedings are conducted in the Italian or Hungarian language, the minutes are recorded in that language. The minutes in bilingual proceedings are recorded in the language which the parties and other participants in the proceedings use. Every statement, deposition or declaration must be translated immediately and recorded in the Slovenian and in the Italian or Hungarian language. Irrespective of whether the proceedings were conducted monolingually or bilingually, the court rulings are always issued in Slovenian and in Italian or Hungarian. Courts of higher jurisdiction and the Supreme Court of the Republic of Slovenia must, when ruling on ordinary or extraordinary legal remedies, in which the court of original jurisdiction conducted proceedings also in Italian or Hungarian language, issue their decisions also translated into Italian or Hungarian. All costs arising from bilingual procedures are the responsibility of the court and not of the client. Bilingual proceedings may only be conducted by a judge or professional worker who has passed an examination in the Italian or Hungarian language. This rule also applies to the court officials participating in bilingual proceedings. The qualification for conducting bilingual proceedings is remunerated with a special bonus.¹⁰⁰

garian languages or if he is listed in the registry of permanent court translators for one of the two languages.

In courts where there are no judges with an active knowledge of the Italian or Hungarian languages, bilingual proceedings are conducted with the assistance of a court translator.

The provisions of this article apply also to the court staff involved in bilingual proceedings.

Article 69: The bonus payment for the qualification of judges and of court staff to conduct bilingual proceedings is determined by the judicial council.»

100. The use of a minority language is also mentioned in certain municipality statutes:

Statute of the Municipality Koper/Capodistria (Official Bulletin, No. 40/2000), article 112: In the nationally mixed area of the municipality, penal and other proceedings are conducted bilingually in accordance with the law.

Proceedings involving several parties of both nations are conducted in the Italian language or bilingually.

State bodies, bodies of the municipal administration and other bodies of the municipality, courts and other bearers of public authorities, issuing legal and other acts following legally defined procedures, must issue these acts to the members of the Italian national community in both languages, and to the other citizens upon request.

In cases from the previous paragraph both acts are considered original.

Article 10: Administrative authorities and public service

The use of the languages of national communities in the activities of administrative agencies and public services is defined in article 10 of the European Charter. Slovenia is bound to comply with paragraphs 1,2,3,4 and 5, that is to say, it has chosen to comply fully with the article 10. Article 10 states:

«Within the administrative districts of the State in which the number of residents who are users of regional or minority languages justifies the measures specified below and according to the situation of each language, the Parties undertake, as far as this is reasonably possible:

- to ensure that the administrative authorities use the regional or minority languages; or
- to ensure that officers who are in contact with the public use the regional or minority languages in their relations with persons applying to them in these languages; or
- to ensure that users of regional or minority languages may submit oral or written applications and receive a reply in these languages; or
- to ensure that users of regional or minority languages may submit oral or written applications in these languages; or
- to ensure that users of regional or minority languages may validly submit a document in these languages;
- to make available widely used administrative texts and forms for the population in the regional or minority languages or in bilingual versions;
- to allow the administrative authorities to draft documents in a regional or minority language.

In respect of the local and regional authorities on whose territory the number of residents who are users of regional or minority languages is such as to justify the measures specified below, the Parties undertake to allow and/or encourage:

- the use of regional or minority languages within the framework of the regional or local authority;
- the possibility for users of regional or minority languages to submit oral or written applications in these languages;
- the publication by regional authorities of their official documents also in the relevant regional or minority languages;

- the publication by local authorities of their official documents also in the relevant regional or minority languages;
- the use by regional authorities of regional or minority languages in discussions in their assemblies, without excluding, however, the use of the official language(s) of the State;
- the use by local authorities of regional or minority languages in debates in their assemblies, without excluding, however, the use of the official language(s) of the State;
- the use or adoption, if necessary in conjunction with the name in the official language(s), of traditional and correct forms of place-names in regional or minority languages.

With regard to public services provided by the administrative authorities or other persons acting on their behalf, the Parties undertake, within the territory in which regional or minority languages are used, in accordance with the situation of each language and as far as this is reasonably possible:

- to ensure that the regional or minority languages are used in the provision of the service; or
- to allow users of regional or minority languages to submit a request and receive a reply in these languages; or
- to allow users of regional or minority languages to submit a request in these languages.

With a view to putting into effect those provisions of paragraphs 1, 2 and 3 accepted by them, the Parties undertake to take one or more of the following measures:

- translation or interpretation as may be required;
- recruitment and, where necessary, training of the officials and other public service employees required;
- compliance as far as possible with requests from public service employees having a knowledge of a regional or minority language to be appointed in the territory in which that language is used.

The Parties undertake to allow the use or adoption of family names in the regional or minority languages, at the request of those concerned».

Following the accepted obligations arising from the European Charter, on the one hand, and legal solutions in the Slovenian national legislation, on the other hand, I have chosen the following model of comparing the two:

a. *Bilingual signs*

The first (visible) indicator of the implementation of the right to freely express the language, are the solutions concerning visible bilingualism in toponymy, signboards, announcements, notices, warnings, etc. Stipulations on visible bilingualism can be found in national legislation¹⁰¹ as well as in municipal regulations.¹⁰² And, what is particularly interesting and im-

101. The Rules of Procedure on Assigning Names to Settlements and Streets and on the Marking of Settlements, Streets and Buildings (Official Gazette of SRS, No. 11/80), article 25:» In the area inhabited by, apart from members of the Slovene nation, members of the Italian or Hungarian national communities, the names of settlements and streets shall be listed in both languages. On the top is the inscription in Slovene, and below it in the minority language. Both inscription are of equal size.»

102. *The Koper/Capodistria Municipality*: Decision on the implementation of bilingualism in the ethnically mixed area. Official Bulletin, 22/1998 (30th June 1998), paragraph 4 of article 6: «All inscriptions on signposts, signboards, explanation boards of traffic signs, on destination boards, official designations of streets, on public transport stations and stops (bus, taxi, rail, boat and other) and in urban public transport vehicles (shall be bilingual), except names of settlements and other geographic terms which are not in the ethnically mixed area».

The statute of the Koper City Municipality (the Official Bulletin 40/2000) article 117: «Public inscriptions in the nationally mixed area are bilingual.

Also bilingual are the public proclamations on bulletin boards of state bodies, municipal bodies and other local self-governing communities and on those of performers of economic and other public services.

Article 118: The bodies of municipal administration and other bodies of the municipality and of other self-governing communities, public enterprises and institutions performing public authorizations, must use in their activities the names of settlements and streets in the nationally mixed areas in the Slovene and Italian language.»

Municipality of Izola/Isola: Decree on the implementation of bilingualism in the ethnically mixed area in the Municipality of Izola/Isola (Official Bulletin, No. 3/2001).

Statute of the Piran Municipality (Official Bulletin 10/1999) article 75: «Public inscriptions in the ethnically mixed area shall be bilingual.»

Statute of the Lendava Municipality (Official Gazette of the Republic of Slovenia, No. 26/1999) article 71: «In the ethnically mixed area, signboards designating settlements, streets, announcements, notices and warnings and other public signs shall be bilingual. All municipal and state organs, enterprises, economic organisations, private businesses, public institutions, associations and other organisations and communities in the ethnically mixed area must have bilingual signboards. The bilingual signs must ensure the equal appearance of both languages».

Statute of the Moravske Toplice Municipality (Official Gazette of the Republic of Slovenia, No. 11/99), article 89: «In the ethnically mixed area, signboards designating settlements, streets, announcements, notices and warnings and other public signs shall be bilingual. All municipal and state organs, enterprises, economic organisations, private businesses, public institutions, associations and other organisations and communities in the ethnically mixed

portant, members of ethnic minorities actively participate in the process of bilingual naming of settlements and streets.¹⁰³

area must have bilingual signboards. The bilingual signs must ensure the equal appearance of both languages».

Statute of the Šalovci Municipality (Official Gazette of the Republic of Slovenia, No. 13/99), article 60: «In the ethnically mixed area, signboards designating settlements, streets, announcements, notices and warnings and other public signs shall be bilingual. All municipal and state organs, enterprises, economic organisations, private businesses, public institutions, associations and other organisations and communities in the ethnically mixed area must have bilingual signboards. The bilingual signs must ensure the equal appearance of both languages».

Statute of the Hodoš Municipality (Official Gazette of the Republic of Slovenia, No. 47/99), article 62: «In the territory of the Municipality, signboards designating settlements, streets, announcements, warnings and other public signs shall be bilingual. All municipal and state organs, enterprises, economic organisations, private businesses, public institutions, associations and other organisations and communities in the ethnically mixed area must have bilingual signboards. The bilingual signs must ensure the equal appearance of both languages».

Statute of the Dobrovnik Municipality (Official Gazette of the Republic of Slovenia, No. 34/99), article 88: «In the ethnically mixed area, signboards designating settlements, streets, announcements, notices, warnings and other public signs shall be bilingual. All municipal and state organs, enterprises, economic organisations, private businesses, public institutions, associations and other organisations and communities in the ethnically mixed area must have bilingual signboards. The bilingual signs must ensure the equal appearance of both languages».

103. Law on the Naming and Registering of Settlements, Streets and Buildings (Official Gazette of the Socialist Republic of Slovenia No. 8/80), article 8:

«The Municipal Assembly shall decide on the naming, renaming, merging, dividing and abolition of settlements and streets and on the definition of the area of a settlement.

In areas inhabited by members of the Slovenian nation and members of the Hungarian or Italian ethnic minorities, the Self-governing Interest Community for Education and Culture of the minority in question shall participate in the decision making process mentioned in the preceding paragraph».

See also:

Statute of the Koper Municipality (Official Bulletin) 40/2000, article 104, 1st paragraph:» The council of the self-governing national community gives its accord through the members of the municipal council — representatives of the Italian national community — regarding the following acts: — on the naming of settlements, streets and squares on the nationally mixed area of the municipality»;

Statute of the Piran Municipality. Official Bulletin No. 10/99, article 66.

Statute of the Lendava Municipality, Official Gazette of the Republic of Slovenia, No. 26/1999, article 77.

Statute of the Šalovci Municipality, Official Gazette of the Republic of Slovenia, No. 13/1999, article 66.

Statute of the Moravske Toplice Municipality, Official Gazette of the Republic of Slovenia, No. 11/1999, article 95.

Statute of the Municipality Hodoš (adopted 15th April 1999), article 68.

b. *Use of the ethnic minority languages in the administration and in the elected bodies:*

Minority language use in administrative proceedings is referred to in the Law on Administration (Official Gazette of the Republic of Slovenia, No. 67/94), which stipulates in chapter 4¹⁰⁴ (language in proceedings) that in the municipalities where, apart from the Slovene language, Hungarian and Italian are also official languages, the administrative proceedings shall be conducted in Slovene and also in the language of a national community, if the party submits in this language the claim upon which the procedure was started, or if the party should so demand at any point of the proceedings.

Furthermore, the use of language refers to the right of the minority members to use their own language, in oral or written form, when dealing with administrative agencies, judicial powers and other institutions of a public character and to receive answers in the minority language. The recognition of the minority language as an official language is of great importance for the minority community. This solution is used in the Slovene constitution.¹⁰⁵ And of course, when language use is not limited by a nu-

104. Law on General Administrative Proceedings (Official Gazette of the Republic of Slovenia, No. 80/1999), chapter 4 (language in proceedings), article 62:

1. The administrative proceeding is conducted in the Slovene language. In this language claims are submitted, written orders, decrees, minutes, official notes and other writings are written and all actions in the proceeding are conducted.
2. In the area of municipalities where, besides the Slovene language, the Italian or Hungarian language (in the following text: national community language) are in official use, the administrative proceeding is conducted in the Slovene and the minority language, if the party submits the claim upon which the proceeding is started in the minority language or if the party so demands at any time during the proceeding.
3. If parties involved in the proceeding have not requested the proceeding to be conducted in the ethnic community language as described in the previous paragraph, the proceeding shall be conducted in the Slovene language and in the ethnic community language.
4. When a municipal body decides on a matter in an area where the national community language is, in addition to the Slovene language, also in official use, and without prior interrogation of the party, the written order shall be issued in the Slovene and the nationality community languages, whereas the spoken order is pronounced in a language comprehensible to the party.
5. Members of the Italian and Hungarian national community have the right to use their nationality language in proceedings before bodies outside the area where the Italian and Hungarian language are in official use as well.

105. *The Constitution of the Republic of Slovenia*, article 11: «The official language of Slovenia is Slovene. In those municipalities where Italian or Hungarian national communities reside, Italian and Hungarian shall also be official languages.»

merical clause. Only in rare cases is the implementation of the special rights of the minorities not limited by a numerical clause, as is defined in Slovene regulations (article 64 of the Slovene constitution). Perhaps the extremely important question of *personal name and surname* usage in their original form should be included in the framework of the right to use a minority language, with simultaneous fulfilment of the commitment to preserve their national characteristics.¹⁰⁶

The Law on Administration (Official Gazette of the Republic of Slovenia, No. 67/94) stipulates in article 4 that the administration conducts business, handles procedures and issues legal and other documents in the Slovenian language and in the language of the ethnic minority if the party who lives in this area uses the Italian or Hungarian language. If an administrative body of first instance conducts a procedure in Italian or Hungarian, the decision of the higher jurisdiction must also be in the same language. *The Law on Employees in State Bodies* stipulates that active knowledge of the Slovenian language is a condition for taking up employment for higher level administrative workers and for those professional technical staff who have direct contact with the public; in areas where the Italian or Hungarian language have equal standing with Slovenian, the same applies for those languages. Knowledge of the language of the ethnic minority entitles one to additional financial remuneration.¹⁰⁷

106. *The Law on Personal names* (Official Gazette of the Socialist Republic of Slovenia, No. 2/87), article 3: «The personal name of a member of the Italian or Hungarian ethnic minority shall be entered in the Italian or Hungarian script and form, unless otherwise determined by the member of the minority».

Statute of the Koper Municipality (Official Bulletin) No. 40/2000, article 108: «State bodies, bodies of the municipal administration and other bodies of the municipality and of other self-governing local communities, public enterprises and public institutions and other legal and physical persons performing a public activity on the nationally mixed area are obliged to (...) — take into account and use the original names and surnames of the Members of the Italian national community when dealing with the public (...)»

Statute of the Piran Municipality Official Bulletin No. 8/94, article 79: «Everyone has the duty to respect the original personal name of a member of the Italian ethnic community, and must not change its spelling».

Statute of the Lendava Municipality (Official Gazette of the Republic of Slovenia, No. 26/1999) article 70: «(...) In their work they have the duty to respect the official names and surnames of members of the Hungarian ethnic community.»

Statute of the Hodoš Municipality (Official Gazette of the Republic of Slovenia, No. 47/1999), article 61: «On the territory of the municipality, the municipal organs and all public services operate in the Slovenian and in the Hungarian language. In the discharge of their duties they must respect the official names and surnames of the members of the Hungarian ethnic community».

107. Ordinance on quotients for the basic remuneration of officials appointed by the

A separate subsection of the right to use the minority languages in the administration is the *right of the deputies of the minorities* to use their language in the National Assembly. In accordance with the *Standing Orders of the National Assembly* (Article 5, par.2), the deputies of the ethnic minorities have the right to «submit in oral and written form proposals, initiatives and other submissions in the Italian or Hungarian languages. The speeches and applications shall be translated into the Slovene language».¹⁰⁸ A similar stipulation applies also to the minutes of the meetings of the National Assembly: «Debates of deputies of the Italian and Hungarian ethnic communities in the Italian or Hungarian language shall be recorded in the minutes of the meeting in their respective language together with the Slovenian translation».¹⁰⁹ By analogy with this solutions on the local level (the use of the ethnic minority languages by the elected deputies in the municipal councils, committees and boards) may be found in all *municipal statutes* or standing orders of the municipal councils in ethnically mixed municipalities.

c. *Bilingual documents:*

The use of ethnic minority languages is also guaranteed in some other important laws: in the *Law on the Register of Birth, Death and Marriages*,¹¹⁰

Government of the Republic of Slovenia, and other employees in Slovenian government services, administrative organs and administrative units (Official Gazette of the Republic of Slovenia No. 82/94), article 10: «On the territory of local communities where the Italian and Hungarian ethnic communities reside, for positions for which the Act on internal organisation and systematisation of positions prescribes knowledge of the language of the ethnic community, the basic salary shall be increased by:

- 6% for active knowledge of the language of the ethnic community;
- 3% for passive knowledge of the language of the ethnic community».

Municipality of Lendava: Regulations on the salaries of municipal officials and remuneration of members of working bodies of the Municipal Council and members of other municipal organs and on the reimbursement of costs (Official Gazette of the Republic of Slovenia, No. 28/1999, paragraph 2 of article 3: «The mayor shall be entitled to a bilingualism bonus in the amount of 20% of his basic salary if he has active knowledge of the language of the ethnic community and uses it in his daily work».

108. Standing Orders of the NA. Official Gazette of the Republic of Slovenia, 40/93, article 5/2.

109. Standing Orders of the NA. Official Gazette of the Republic of Slovenia, 40/93, article 321/2.

110. Law on the Register of Births, Deaths and Marriages (Official Gazette of the Socialist Republic of Slovenia No. 2/87), paragraph 2 of article 30: «In areas where members of the Italian or Hungarian ethnic minority reside, registrars shall be obliged to issue extracts and certificates from registers also in the Italian or Hungarian languages».

the *Law on Personal Identification Cards*¹¹¹ and in the *Law on Passports*¹¹² for the citizens of the Republic of Slovenia. Bilingual documents are compulsory for all inhabitants of the ethnically mixed territories regardless of their ethnic affiliation. In addition to the personal identification card (the form is trilingual: Slovene/Italian-Hungarian/English), passports (the document is quadrilingual: Slovene/Italian-Hungarian/English/French) and passes for border control in the border area with Italy and Hungary, the following documents are bilingual: *driver's licenses, vehicle registration documents, medical insurance cards and licenses to carry arms*. The use of a minority language in issuing *army service booklets* is regulated differently. On the grounds of article 2 of the *Standing Orders on the Army Service Booklets* (Official Gazette of the Republic of Slovenia, No. 16/1996) «a bilingual Army Service Booklet is issued to a military serviceman who is a member of the Italian or Hungarian national community, if he so demands». Also bilingual are the summons to military servicemen and the owners of relevant civilian means (work machinery, vehicles listed by the Ministry of Defence).

The provision that any written record in the minority language must consider the *script* of the Italian and Hungarian writing seems like a natural rounding-up of the rights of the members of the national communities with regard to the usage of their mother tongue.

Perhaps we should, when discussing bilingual operations in state agencies, also mention the provision of the *Law on Census Taking in 2001*, stating that «in the areas of municipalities, where members of the Italian or Hungarian communities live, an appropriate number of members of the regional census commissions, regional instructors and census takers must be appointed among the representatives of self-governing national communities that are proposed by the ethnic community, and are fluent in the Italian or Hungarian languages. For census taking in the areas of the municipalities where the members of the Italian or Hungarian communities live,

111. Law on Personal Identity Cards (Official Gazette of the Republic of Slovenia No. 75/97, dated 5th December 1997), article 6: «Personal identity cards shall be printed in Slovenian and in English; and in areas defined by law where members of the autochthonous Italian or Hungarian community live together with members of the Slovenian nation, also in Italian or Hungarian».

112. Law on Passports for Citizens of the Republic of Slovenia (Official Gazette of the RS, No. 65/2000), article 13: «Passports and visas shall be printed in Slovenian, English and French; in areas defined by the law where members of the autochthonous Italian or Hungarian community live alongside members of the Slovenian nation, documents are also printed in Italian and Hungarian».

an appropriate number of questionnaires in the Italian or Hungarian languages must be provided».¹¹³

d. *Bilingual operation in municipal administration*

The use of ethnic community languages on the municipal level may be discussed from various perspectives. It may be discussed as an issue of bilingual signs,⁶² from the viewpoint of bilingual transactions of the municipal administration in ethnically mixed municipalities; further, as the right of the elected deputies of ethnic minorities to use their own language in the municipal councils, committees and boards; and last but not least, as the right of the members of ethnic minorities to use their mother tongue in the bodies of the local community. Provisions on the use of ethnic community languages in the above-mentioned areas may be found in all municipal statutes and/or standing orders of municipal councils and in appropriate municipal decrees. That is why we will not reproduce them here. However, we should mention that in some nationally-mixed municipalities special instructions regarding the use of minority languages were adopted; such is the case in the municipalities of Koper/Capodistria¹¹⁴ and Izola/Isola.¹¹⁵ Bilingual operations require additional financial resources, which are provided by the state budget in one manner or another.¹¹⁶ The most important comment that can be discerned from the response of the administration of nationally-mixed municipalities is that the state budget does not provide enough funding necessary to conduct bilingual operations in municipal administrations.

113. Law on Census Taking in the Republic of Slovenia in 2001. The Official Gazette of the Republic of Slovenia No. 66/2000, article 21.

114. Instructions on the Use of the Italian Language with Citizens in the Operations of Municipal Administration Bodies. Municipality of Koper, 15.10.2001, no. K0052-6/01.

115. The Decree on the Exercising of Bilingualism on the Ethnically Mixed Area of the Isola Municipality. The Official Bulletin, No. 3/2001 (15th February 2001).

116. Law on the Financing of Municipalities (Official Gazette of the Republic of Slovenia, Nos. 80/94 and 56/98), paragraph 7 of article 26: «Irrespective of statements in the previous paragraphs, municipalities in bilingual areas shall be guaranteed funds from the state budget to finance the requirements of bilingualism and for the implementation of the constitutional rights of the Italian and Hungarian ethnic communities».

Article 11. Media

The right to information is dealt with in the European Charter in article 11. Slovenia is obligated to fulfil from this article the obligations defined in items a (i) and e of the first paragraph and paragraphs 2 and 3. Paragraph 1 a (i) states that : «The Parties undertake, for the users of the regional or minority languages within the territories in which those languages are spoken, according to the situation of each language, to the extent that the public authorities, directly or indirectly, are competent, have power or play a role in this field, and respecting the principle of the independence and autonomy of the media:

- a. to the extent that radio and television carry out a public service mission:
 - (i) to ensure the creation of at least one radio station and one television channel in the regional or minority languages.
- e. (i) To encourage and/or facilitate the creation and/or maintenance of at least one newspaper in the regional or minority languages.»¹¹⁷

And in the second paragraph of article 11 Slovenia is obligated «to guarantee freedom of direct reception of radio and television broadcasts from neighbouring countries in a language used in identical or similar form to a regional or minority language, and not to oppose radio and television broadcasts from neighbouring countries in such a language. They further undertake to ensure that no restrictions will be placed on the freedom of expression and free circulation of information in the written press in a language used in identical or similar form to a regional or minority language. The exercise of the above-mentioned freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.»¹¹⁸ The third paragraph of article 11 states that «the Parties undertake to ensure that the in-

117. European Charter for Regional or Minority Languages, article 11, 1st paragraph, a (i), e (i).

118. European Charter for Regional or Minority Languages, article 11, 2nd paragraph.

terests of the users of regional or minority languages are represented or taken into account within such bodies as may be established in accordance with the law with responsibility for guaranteeing the freedom and pluralism of the media.»¹¹⁹

How is the field of minority media settled in Slovenia?

In discussing the right to information of the members of ethnic communities, at least three different areas should be addressed: firstly, the opportunities for ethnic groups to create and disseminate information in their own language about themselves and the environment in which they live; secondly, the presence of ethnic community issues in the media which use the language of the majority nation; and last but not least, the possibilities for the free reception of information in the language of the ethnic community from the country inhabited by the majority of the nation to which the ethnic community pertains to, and with analogy to this also the possibilities of transmitting the information which the ethnic community creates, into that country.

Mere legal provisions are usually not enough for the realisation of this rather ideal picture. They represent only the framework which needs to be complemented with professionalism on the part of those providing the information and with their ability to succeed in placing the information in the media space of their own ethnic group and that of the majority nation. Of course, an appropriate legal foundation is essential for the development of media space. In the *Law on Media* (Official Gazette of the Republic of Slovenia No. 35/2001) Slovenia bound itself to support the media in disseminating the information important «for exercising the right to public information of the citizens of the Republic of Slovenia, of the Slovene population worldwide, of the members of the Slovene national minority in Italy, Austria and Hungary, of the Italian and Hungarian national communities in Slovenia and of the Romany community living in Slovenia.»¹²⁰ The law further stipulates that «Slovene should be the language of broadcasting; if the programme is dedicated to the Hungarian or Italian ethnic communities the programme can be broadcasted in the language of the ethnic community».¹²¹ A similar solution is determined for public advertisements. Such communications are published in the Slovenian language, except in the case when the advertisements are published by the media of the Italian or Hungarian ethnic communities.¹²² In the *Law on Media*, further stipulations concerning the Italian and Hungarian national communi-

119. European Charter for Regional or Minority Languages, article 11, 3rd paragraph.

120. *Law on Media*, The Official Gazette, No. 35/2001, article 4, 1st paragraph.

121. *Law on Media*, The Official Gazette, No. 35/2001, article 5, 4th paragraph.

ties can be found in the section entitled «Slovene audiovisual production», where it is stated that «material that is originally produced in the Slovene language, material that is designed for the Italian or Hungarian national communities in their languages and materials of Slovene cultural origin in other fields of art constitute Slovene audiovisual production». ¹²³ The public service of the materials and the dissemination of national radio or television programmes «that are within the public and cultural interest of the Republic of Slovenia, including the radio and television programmes of the Italian and Hungarian national communities and other programmes in accordance with a special law, are performed by the public institution Radiotelevizija Slovenija». ¹²⁴ Perhaps it would be relevant to mention here the international legal obligations of the Republic of Slovenia that arise from bilateral treaties. The provisions from the section about the media and the national communities can be found in the provisions of the Special Statute of the Memorandum of Understanding from 1954 ¹²⁵ and in the provisions of the special agreement between the Republic of Hungary and the Republic of Slovenia. ¹²⁶

The field of radio and television activities, which are performed as a public service, is managed by the Law on Radio-Television Station Slovenia. The public service is defined by this law as the creation, preparation and broadcasting [among other things, note M.K.] of «one radio or television programme for the Italian or Hungarian community (in the following text: nationality programme)». ¹²⁷ With the formation of this programme

122. Law on Media, The Official Gazette, No. 35/2001, article 51, 2nd paragraph.

123. Law on Media, The Official Gazette, No. 35/2001, article 68, 1st paragraph.

124. Law on Media, The Official Gazette, No. 35/2001, article 76, 1st paragraph.

125. The Special Statute (annex II) of the Memorandum of Understanding, item 4a: «(...) the ethnic groups [the Italian in Yugoslavia and the Yugoslav in Italy, note M.K.] shall have the right to their own press in their mother tongue.»

126. Convention on the Providing of the Special Rights of the Slovenian Ethnic Minority in the Republic of Hungary and the Hungarian Ethnic Community in the Republic of Slovenia (Official Gazette of the Republic of Slovenia No. 6/93), article 5: «The signatories recognise the right of the minorities to information in their own language in the press, on radio and on television. To this end they shall guarantee to the minorities their own information activities and their development. They shall support the free flow of information in the languages of the minorities and cooperation between the ethnic mass media and those of the majority nations.

The contracting parties shall ensure the reception of local radio and TV stations, as well as radio and TV stations of the parent nation, and for regular and appropriate time slots for radio broadcasts in the mother tongue».

127. Law on Radio-Television Station Slovenia (Official Gazette of the Republic of Slovenia, 18/1994, article 3, 1st paragraph.

RTV ensures «the exercise of the constitutional right of the Italian and Hungarian national communities in the field of public radio and television information, the linkage of the national communities with the kin-nation and the inclusion of cultural and other achievements of the Italian and Hungarian nations in the nationality programmes.»¹²⁸ This activity is ensured by RTV Slovenia «especially through the divisions in Maribor, Kopar, Lendava and through the local programmes Murski Val — Murska Sobota (...).»¹²⁹ The ethnic minority programme must be receivable on at least 90% of the area inhabited by the members of the Italian and Hungarian national communities. Self-produced, co-produced and commissioned productions of informative, cultural, educational and entertainment content must amount to «at least two hours daily, if it is a nationality radio programme or at least 30 minutes daily, if it is a nationality television programme.»¹³⁰ If the nationality programme or just a part of it is submitted to another RTV organisation or producer it can be accomplished only with the «agreement of the programme council of the nationality programme.»¹³¹ For the creation, preparation, broadcasting and dissemination of nationality programmes, funds are allocated from the state budget. The representatives of national communities (Italian and Hungarian) are also present on the Council of RTV Slovenija, each with one representative. The nomination discharge of the directors of nationality programmes and of one third of the members of the programme councils for the nationality programme are under the jurisdiction of the Council of RTV. The central agency actively participating in the process of fulfilling the obligations of RTV Slovenia in the field of informing the national communities are the programme councils for nationality programmes. The composition and jurisdiction of this agency are defined in article 22 of the Law on RTV.¹³²

128. Law on Radio-Television Station Slovenia (Official Gazette of the Republic of Slovenia, 18/1994, article 3, 2nd paragraph).

129. Law on Radio-Television Station Slovenia (Official Gazette of the Republic of Slovenia, 18/1994, article 3, 3rd paragraph).

130. Law on Radio-Television Station Slovenia (Official Gazette of the Republic of Slovenia, 18/1994, article 6, 1st paragraph).

131. Law on Radio-Television Station Slovenia (Official Gazette of the Republic of Slovenia, 18/1994, article 6, 5th paragraph).

132. Law on Radio-Television Station Slovenia (Official Gazette of the Republic of Slovenia, 18/1994, article 22: «The council of RTV Slovenia shall name programming boards for the nationality programme (in the following text: programming board).

In the programming board from the previous chapter the self-governing ethnic communities in Slovenia shall name two thirds of the members for the period of four years and with the possibility of re-nomination.

More detailed provisions on the activity of the programme councils for nationalities can be found in the Statute of RTV Slovenia, which is foreseen in article 26 of the Law on RTV Slovenia.

The radio and television station in the Italian language (the situation is similar for the programmes in the Hungarian language) functions within the framework of the national radio-television station.¹³³ That is why it would seem appropriate to describe the place, status and amount of autonomy of the nationality programmes in this undoubtedly important media institutions. For the ethnic programme within the framework of the Slovenian Radio and Television station there are two channels each headed by a director.¹³⁴ The nomination proposal for the director is submitted by the programme board for the ethnic programme, and the same board also authorises the appointment of the editors responsible for the ethnic minority programmes.¹³⁵ Among the conditions listed for the posi-

The programming board gives its accord to the nomination of the chief editor of the nationality programme and on the amount and programme scheme of the programme.

The programming board deals with the realisation of the programme scheme, the comments and suggestions of viewers and listeners, submits initiatives to the RTV council for addressing certain issues related to the nationality programme and performs tasks defined in the statute.

RTV Slovenia must make public the position of the programming board on issues concerning the nationality programme.

133. Statute of the Public Institution RTV Slovenia (Official Gazette of the Republic of Slovenia No. 66/95), article 9: RTV Slovenia includes the following units: (...) the Regional RTV Centre Koper-Capodistria/Centro Regionale RTV Koper-Capodistria

Article 18: «The TV channel Koper-Capodistria and the Radio channel Koper-Capodistria jointly form the Regional RTV Centre Koper-Capodistria which shall create, produce and broadcast the RTV programme in Slovenian, the RTV programme for the Italian ethnic community, the RTV programme for the Slovenian minority in Italy and produce broadcasts for the state RTV programmes».

Article 19: «The RTV programmes mentioned in the preceding article shall be produced by the editors of the regional RTV programme and the editors of the Italian RTV programme. (...)

The production of the RTV programme in the Italian language shall be coordinated by the director and the editors responsible for the programmes for the Italian ethnic community.»

134. Statute of the Public Institution RTV Slovenia (Official Gazette of the Republic of Slovenia, No. 66/95), article 40: «The programme directors are senior officers of RTV Slovenia for the areas of radio and TV programmes. RTV Slovenia shall have programme directors for the following programming areas: for the TV programmes of RTV Slovenia; for the radio programmes of RTV Slovenia; for the TV and radio programme for the Italian ethnic community; for the TV and radio programme for the Hungarian ethnic community».

135. Statute of the Public Institution RTV Slovenia (Official Gazette of the Republic of Slovenia, No. 66/95), articles 41, 47.

tion of the editor responsible for the ethnic programme is his active knowledge of the Italian or Hungarian language respectively.¹³⁶ Important institutions within the framework of the state radio and television station are also the programming boards for the ethnic programmes: 1. the Programming Board for radio and TV programmes for the Italian ethnic community; 2. the Programming Board for radio and TV programmes for the Hungarian ethnic community. Both bodies have a wide range of activities, with some competencies similar to the competencies of the elected deputies of the minority in the legislative branch of the government.¹³⁷ The assurance that the programming boards shall represent the legitimate interests of the ethnic communities is given in Article 54 of the Statute of RTV Slovenia. The programming boards are established by the Board of RTV Slovenia. They have seven members, five of which are appointed by the self-governing ethnic communities, and two by the Board of RTV Slovenia directly.

The first step towards informing the members of the *Hungarian ethnic minority* in their mother tongue was made in 1956 when a supplement in the Hungarian language entitled *Népújság* was added to the local newspaper *Pomurski vestnik*. Since 1958, *Népújság* has been published as an independent weekly. It has a circulation of some 2000 copies, and there are approximately 1600 subscribers. Every year (since 1960) the editors also prepare an almanac entitled *Naptár*. In 1986 the first edition of a special literary and cultural supplement to the weekly *Népújság* was published by the name of *Muratáj*, which in 1988 became an independent literary magazine of the same name. The publisher of all these is the Institute for Information Services of the Hungarian Ethnic Minority, which was founded in

136. Statute of the Public Institution RTV Slovenia (Official Gazette of the Republic of Slovenia No. 66/95), article 48.

A similar provision can be found in the 1st paragraph of article 19 of the Law on Media (Official Gazette 35/2001), stating that the «a person, with (...) certificate proving active knowledge of the Italian or Hungarian national language, can become chief editor of a medium of Hungarian or Italian national community.»

137. Statute of the Public Institution RTV Slovenia (Official Gazette of the Republic of Slovenia, No.66/95), article 53: The programming boards deal with the realisation of programming concepts, they authorize the scope and programming concept of the ethnic programme, deal with comments and suggestions of viewers and listeners where those relate to the ethnic programmes, offer initiatives to the Board of RTV Slovenia concerning ethnic programme issues, deal with initiatives, opinions and proposals of journalists and editors concerning the production and broadcasting of ethnic minority programmes, propose the appointment and discharge of the editor responsible for ethnic minority programmes and deals with other ethnic minority issues.

1993. Results of a research carried out in 1996¹³⁸ show that most readers are members of the Hungarian ethnic community, only some 10% of regular readers are from the majority nation, and an additional 9% stated that they read the Hungarian language papers from time to time.

The radio programme in the Hungarian language was established in 1958 as part of Radio Murska Sobota. The beginnings were humble: a ten-minute broadcast on Sunday nights. Today broadcasts in the Hungarian language are transmitted from a studio in Lendava, which is included as a separate unit in the system of the state Radio and TV service.¹³⁹ The Hungarian language programme lasts 8 hours except on Sundays (7 hours). It has been broadcasting from the studio «in Lendava since 1983, and since 1992 they have been broadcasting on their own UHF frequency 87.6 MHz and MW frequency 648 kHz. (...)» In 1978 the TV station in Ljubljana began broadcasting a programme called *Hidak-Mostovi* (Bridges). A half-hour programme grew from the original 15 minutes and was broadcasted twice a month. From January 1983 to April 1985 it was called *Hidak-Mostovi-Ponti* and it targeted members of the Hungarian and Italian ethnic communities. Neither the Italians nor the Hungarians were happy with it. The viewers perceived the dual subtitles (in Hungarian and in Italian) as intrusive. The Italians said that the Koper-Capodistria TV station provided sufficient information in Italian, and they did not need a joint programme with the Hungarians. Members of the Hungarian ethnic community on the

138. Interethnic relations and ethnic identity in the town Lendava/Lendva: a comparative analysis of ethnic identity elements of the population in contact areas of the border regions in Slovenia, Austria, Italy and Hungary (project leader Albina Nečak-Lük), Ljubljana, INV 1996.

139. Statute of the Public Institution RTV Slovenia (Official Gazette of the Republic of Slovenia No. 66/95), article 9: RTV Slovenia includes the following units: (...) Regional RTV Centre Maribor with two studios for the Hungarian programme in Lendava — Magyar Nemzetsegi Murosok Lendvai Szerkesztoseg.

Article 20: The Regional RTV Centre in Maribor creates, produces and broadcasts the regional TV and radio programme, the TV and radio programme for the Hungarian ethnic community, the TV and radio programme for the Slovenian minority in Austria and Hungary, and it produces broadcasts for state radio and TV programmes and broadcasts in foreign languages.

Article 21: The radio and TV programmes mentioned in the preceding article are produced by the editors of the regional radio and TV programme and the editors of the Hungarian radio and TV programme (...).

The production of the TV and radio programme in the Hungarian language is coordinated by the director and the editors responsible for the Hungarian ethnic community programmes. The management office of the radio and TV programme for the Hungarian ethnic community is in Lendava.

other hand voiced criticism concerning the content and technical realisation. The management of the TV station found that the members of the ethnic communities did not support the programme, therefore they returned to the original concept of Mostovi-Hidak. Since January 1995 the half-hour programme is broadcasted twice a week.

Apart from current affairs, the programme presents a range of cultural, political, ethnographic and other news items from the life of the ethnic minority.¹⁴⁰ In 1993 a new radio and TV transmitter was built in Dolnji Lakaš, enabling better reception of Hungarian stations. Those programmes are widely viewed and listened to among the members of the Hungarian ethnic minority, while there are relatively few listeners among the majority population (this was established by a research conducted by the Institute for Ethnic Studies). In the ethnically mixed area it is possible to buy books, magazines and newspapers printed in Hungary, particularly in Lendava, where a book shop was opened in 1998 that sells such materials.

A radio station in the Italian language was established in 1949. The radio station broadcasts fourteen hours of the programme in the Italian language. In 1971 a TV station was added. The TV station provides information for the Italian population in Slovenia and Croatia. It broadcasts eleven hours of programme daily, ten hours in Italian and one hour in Slovenian. The results of a research conducted by the Institute for Ethnic Studies in 1996 show that the Italian language programme is listened to (regularly or often) by almost 60% of the members of the Slovenian majority population and almost 90% of the members of the Italian ethnic community. The area along the Slovenian-Italian border offers an extremely dynamic choice of media. The signals of many radio and TV stations from Italy may be easily received all over the ethnically mixed area, which of course strengthens the ties of the members of the Italian minority with the Italian language territory. The same is also true for the members of the Slovenian nation.

In addition to electronic media, the Italian ethnic community also has at its disposal printed means of mass communication. The main publisher is EDIT, established in 1952. The seat of the institution is in Rijeka, and the coastal municipalities in Slovenia are covered by a special correspondence office in Koper. Its chief publication is the daily «La voce del popolo» which has a circulation of approximately 3,750 copies. About 300 of these are distributed in Slovenia. EDIT also publishes the weekly «Panorama» in

140. Katalin Munda-Hirnök: The public media in the ethnically mixed area in Lendava. Interethnic relations and ethnic identity on the Slovenian ethnic territory. INV, Ljubljana, 1998, p. 127.

a circulation of approximately 2,200 copies, 600 of which are distributed in Slovenia; the quarterly literary magazine «La Battana» (circulation of 1,000 copies, 50 distributed in Slovenia) and a children's newsletter «Arcobaleno» (circulation of 2,500 copies, 350 distributed in Slovenia). Since 1992 the newspaper «La voce del popolo» is sold together with the Trieste daily paper «Il Piccolo» in a «sandwich» arrangement — two papers for the price of one. In addition to these activities there is a range of publications issued occasionally (or in conjunction with other local media) by cultural associations in the ethnically mixed area. The Republic of Slovenia supports the publishing of printed media with suitable financial grants. The amount represents 20% of the sum which is allocated for these activities in the Republic of Croatia.

Article 12: Cultural activities and institutions

The field of cultural activities is defined in article 12 of the European Charter. Slovenia is bound to respect the provisions of items a,d,e,f from the 1st paragraph and provisions of the 2nd and 3rd paragraphs. The assumed obligations are as follow:

«With regard to cultural activities and facilities — especially libraries, video libraries, cultural centres, museums, archives, academies, theatres and cinemas, as well as literary work and film production, vernacular forms of cultural expression, festivals and the culture industries, including *inter alia* the use of new technologies — the Parties undertake, within the territory in which such languages are used and to the extent that the public authorities are competent, have power or play a role in this field:

- to encourage types of expression and initiative specific to regional or minority languages and foster the different means of access to works produced in these languages;
- to ensure that the bodies responsible for organising or supporting cultural activities of various kinds make appropriate allowance for incorporating the knowledge and use of regional or minority languages and cultures in the undertakings which they initiate or for which they provide backing;
- to promote measures to ensure that the bodies responsible for organising or supporting cultural activities have at their disposal staff who have full command of the regional or minority language concerned, as well as of the language(s) of the rest of the population

- to encourage direct participation by representatives of the users of a given regional or minority language in providing facilities and planning cultural activities.»¹⁴¹

The second paragraph states: «In respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language so justifies, to allow, encourage and/or provide appropriate cultural activities and facilities in accordance with the preceding paragraph.»¹⁴²

And the 3rd paragraph states that the «The Parties undertake to make appropriate provision, in pursuing their cultural policy abroad, for regional or minority languages and the cultures they reflect.»¹⁴³

The cultural policy in the field of minority culture policy pursues the following objectives:

- the encouragement of the developed cultural pluralism,
- the encouragement of the cultural activity of minority communities and immigrants,
- the encouragement of tolerance and cohabitation in the field of these communities' cultures,
- the development of linguistic competencies of the members of these communities and
- the safeguarding of cultural rights to culture of all Slovenia's inhabitants.»¹⁴⁴

Similar stipulations can be found in the proposal of the Slovene national cultural programme stating the «preferential areas of financing constitutionally recognized minority communities:

- the preservation of cultural heritage (in cooperation with the national institutions dealing with the preservation of cultural heritage);
- the founding of proper cultural organisations to preserve and develop the cultural/ethnic particularities of a minority community;

141. European Charter for Regional or Minority Languages, article 12, 1st paragraph a,d,e,f.

142. European Charter for Regional or Minority Languages, article 12, 2nd paragraph.

143. European Charter for Regional or Minority Languages, article 12, 3rd paragraph.

144. Cultural Policy in Slovenia. (1997) FDV, Ljubljana, p. 200.

- publishing and
- contacts with the kin-nation in the field of culture.

The provisions safeguarding the cultural heritage are within the jurisdiction of the administration for cultural heritage and are aimed at protecting the cultural heritage in the way described in the convention on safeguarding cultural and natural heritage (1972). The damaging or loss of any artefact of cultural heritage (including the cultural heritage of the minority community) constitutes an impoverishment of the world heritage and particularly the cultural heritage of the ethnically mixed area, as such the cultural heritage of ethnical minorities deserves professional attention. Therefore, within the institutions safeguarding the cultural heritage in the Republic of Slovenia, special attention is dedicated in the sense of programmes, personnel and otherwise to the cultural and natural heritage of the national communities.»¹⁴⁵

The Republic of Slovenia has included the cultural heritage and present-day cultural production of both minorities in the common heritage of the Slovenian state, and safeguards them in a similar manner as it does the cultural production of the majority nation; this can be seen from the *Law on the Realisation of the Public Interest in the Area of Culture*.¹⁴⁶ In the *Law on the Protection of the Cultural Heritage*,¹⁴⁷ the state of Slovenia has bound itself to protect all ethnological monuments on its territory, irrespective of their ethnic origin. Provisions dealing with the cultural activities of the ethnic communities may also be found in the *Law on the Fund of the Republic of Slovenia for Amateur Cultural Activities*,¹⁴⁸ the *Law on Librarianship*¹⁴⁹

145. The Slovene National Cultural Programme: proposed/published by the Ministry of Culture of the Republic of Slovenia. (2000) Nova Revija, p. 44.

146. Law on the Realisation of the Public Interest in the Area of Culture (Official Gazette of the Republic of Slovenia, No. 75/94).

147. Law on the Protection of the Cultural Heritage (Official Gazette of the Republic of Slovenia, No. 7/99), paragraph 6 of Article 6: «Ethnological monuments shall be areas, buildings, groups of buildings, objects of everyday use and artefacts which bear witness to the life and work of Slovenes, members of the Italian and Hungarian minority and other peoples on the territory of Slovenia.»

148. Law on the Fund of the Republic of Slovenia for Amateur Cultural Activities (Official Gazette of the Republic of Slovenia, No. 1/96), paragraph 2 of article 5: «The Fund may, on the basis of a contract with the local self-governing community or the self-governing community of the autochthonous Italian and Hungarian ethnic communities in Slovenia, perform on its behalf the functions mentioned in the preceding paragraph.»

149. Law on Librarianship (Official Gazette of the Republic of Slovenia, No. 87/2001), article 25: (general libraries in ethnically mixed areas): general libraries in ethnically mixed

and also in the *Law on Institutions*.¹⁵⁰ To coordinate the implementation of different policies in the field of culture, a «Department for The Culture of National Communities, Romany Communities, Immigrants and Other Ethnic Minority Communities,» was founded. The department prepares, in cooperation with experts, a professional foundation for the decision-making on cultural policy towards Slovenia's minorities, cooperates with international organisations (in this manner in 2000 it organised, together with the Council of Europe, an international seminar on the instruments of public authority in the field of safeguarding the cultural rights of minorities), establishes direct contacts with the representatives of the minority communities, counsels them, helps them in the exercise of their rights and funds their cultural activities based on criteria that are co-determined by the representatives of the minority communities.

The Hungarian self-governing ethnic community has founded the «Institute for the Culture of the Hungarian Ethnic Minority» with the purpose of promoting Hungarian culture. The Institute coordinates and directs the work of twenty-two cultural associations of the Hungarian minority. The cultural associations are active in many areas of the creative and the performing arts — from ethno-folkloric to original artistic achievements. The cultural production of the Hungarian ethnic community is often presented in Hungary.

Library activities are also included in the system of cultural activities. Material in the Hungarian language is collected and kept in libraries in

areas shall ensure the library activity designated for the members of the Italian or Hungarian national community and the Roma community. These libraries ensure to the members of these communities communication in their own language.

The general libraries from the previous chapter shall prepare their programme of activities in accordance with the representatives of national communities.

Article 33 (the national library), 2nd paragraph: the national library performs within the framework of public library services, in addition to the activities from article 2 of this law, also the following tasks: — it collects, processes, keeps and makes available the fundamental national collection of all library materials in the Slovene language, about Slovenia and Slovenes, Slovene authors, Slovene publishing companies, members of the Italian or Hungarian national communities, Roma community and other minority communities in Slovenia (Slovenika) and fundamental foreign literatures;

shall attend particularly to the professionalism and organisation of library activities provided for members of the Italian and Hungarian ethnic communities».

150. Law on Institutions (Official Gazette of the Republic of Slovenia, No. 12/91), paragraph 4 of article 3: «The self-governing ethnic community has the right to co-establish or establish of its own accord, a public institution for performing activities important for the realisation of the rights of the minorities».

Murska Sobota and Lendava. Within the Regional and Study Library in Murska Sobota a division for Hungarian Studies is operational. The collection of materials in the Hungarian language amounts to 30,000 items, representing 13% of the total material of the library. No less important is the activity of Lendava Library /Konyvtar Lendva. The library is an independent institution with its seat in the ethnically mixed area. Its founder is the municipality of Lendava and the co-founder is the Hungarian national self-governing community of the Lendava municipality. The number of items in the library is 96,000, 40% of which are in Hungarian. On the nationally mixed area there are, next to the parent library in Lendava, also 5 local libraries: Dolina (about 4,000 items of library material, 2,100 in Slovene and 1,900 in Hungarian), Dobrovnik (8,400 units, 3,900 in Slovene, 4,500 in Hungarian), Gaberje (3,800 units, 2,400 in Slovene, 1,400 in Hungarian), Genterovci (7,000 units, 2,700 in Slovene, 4,300 in Hungarian), Petišovci (3,900 units, 2,300 in Slovene, 1,600 in Hungarian).

The central library in Slovene Istra procuring book material in the Italian language is the Central Library of Srečko Vilhar in Koper/Biblioteca centrale Srečko Vilhar Capodistria. The library has a department of Italian Studies. It carries out the activities connected with the acquisition and dissemination of materials in the Italian language for libraries in Slovene Istra and for the institutions and schools of the Italian minority in the bilingual area. Library material in the Italian language is also kept in the Piran City Library /Biblioteca Civica di Pirano) and the Izola Central Library /Biblioteca civica di Isola.

In the ethnically mixed area in the Coastal Region there are six Italian cultural associations; however, there is no umbrella institution similar to the Institute for the Culture of the Hungarian Minority. Two important institutions of the Italian ethnic community have their headquarters in Croatia: the Centre for Historical Research in Rovinj, and the Italian Drama in Rijeka. The Slovenian state provides a proportionate financial contribution to support the activities of these two institutions.

Article 13. Economic and social life

This segment of the minority language use is defined in article 13 of the European Charter. Slovenia is obligated to comply with both paragraphs in this article. The first paragraph of article 13 states that:

- «• With regard to economic and social activities, the Parties undertake, within the whole country:
 - to eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly employment contracts, and in technical documents such as instructions for the use of products or installations;
 - to prohibit the insertion in internal regulations of companies and private documents of any clauses excluding or restricting the use of regional or minority languages, at least between users of the same language;
 - to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities;
 - to facilitate and/or encourage the use of regional or minority languages by means other than those specified in the above sub-paragraphs.»¹⁵¹

And in the second paragraph of article 13 it is stated that:

- «• With regard to economic and social activities, the Parties undertake, in so far as the public authorities are competent, within the territory in which the regional or minority languages are used, and as far as this is reasonably possible:
 - to include in their financial and banking regulations provisions which allow, by means of procedures compatible with commercial practice, the use of regional or minority languages in drawing up payment orders (cheques, drafts, etc.) or other financial documents, or, where appropriate, to ensure the implementation of such provisions;
 - in the economic and social sectors directly under their control (the public sector), to organise activities to promote the use of regional or minority languages;
 - to ensure that social care facilities such as hospitals, retirement homes and hostels offer the possibility of receiving and treating in their own language persons using a regional or minority language who are in need of care on grounds of ill-health, old age or for other reasons;
 - to ensure by appropriate means that safety instructions are also drawn up in regional or minority languages;

151. European Charter for Regional or Minority Languages, article 13, 1st paragraph.

- to arrange for information provided by the competent public authorities concerning the rights of consumers to be made available in regional or minority languages.»¹⁵²

From the legislation on national and local (municipal) level presented in the previous chapters, it is clear that any deterrence from using regional and minority languages in economic activities is forbidden. There should also be no ambiguity concerning the implementations of provisions concerning visual bilingualism in public and private economic and social services. However, in spite of the adopted legislation, we have to say that the gap between the provisions on minority language use and everyday practice is greatest in the field of economic activities. For the economic sector bilingual administration (the use of national communities' languages) is evidently an expense they would rather avoid. This is especially characteristic of companies based outside the nationally mixed areas but who also conduct business on ethnically-mixed territory. The inconsistencies in this field are so numerous that the representatives of the Italian national community believed that the adoption of a special law regarding the use of the Italian and Hungarian language as an official language in nationally mixed territories might be worth considering.

Article 14. Transfrontier exchanges

This field is dealt with in article 14 of the European Charter. Slovenia is obligated to comply with both paragraphs. It is written in article 14 that: «the Parties undertake:

- to apply existing bilateral and multilateral agreements which bind them with the States in which the same language is used in identical or similar form, or if necessary to seek to conclude such agreements in such a way as to foster contacts between the users of the same language in the States concerned in the fields of culture, education, information, vocational training and permanent education;
- for the benefit of regional or minority languages, to facilitate and/ or promote co-operation across borders, in particular between regional or local authorities in whose territory the same language is used in identical or similar form.»¹⁵³

152. European Charter for Regional or Minority Languages, article 13, 2nd paragraph.

153. European Charter for Regional or Minority Languages, article 14.

Slovenia is bound by its constitution (article 64, par. 1) to give not only moral but also material support to the members of ethnic communities for the preservation and development of free relations, particularly with the 'kin-nations', i.e. nations of origin, and their countries. This commitment was defined in more detail in regional laws. The Law on Self-governing Ethnic Communities states that resources for the preservation of free relations of the ethnic communities at various levels shall be provided from the funds of «self-governing local communities (municipalities) from the budget of the Republic of Slovenia and from other sources».¹⁵⁴ The provision which could be classed as transfrontier exchanges may also be found in the «Law of the Special Rights of the Italian and Hungarian Ethnic Communities in the field of Education»,¹⁵⁵ which states in article 4 that «for the realisation of goals arising from this law, and in accordance with international agreements, public kindergartens or schools educating in the language of the national community, and bilingual kindergartens and schools shall cooperate with the appropriate institutions of the kin-nation in the neighbouring states.»

Final remarque

Legislation on the use of Hungarian and Italian in different fields of social and political life seems sufficient. The problems in exercising the linguistic rights of the group in everyday life have several sources. The emphasis of the newly-founded (1991) state on the «defence» of the Slovene nation is reflected in the changed status of the «classical» ethnic minorities: the new Constitution removes from the Italian and Hungarian minorities their status as constituent national elements of the Slovene «state», and defines them as ethnic communities. This, along with explicit stressing of «Slovenhood», may be responsible for a growing concern among the minority members about their situation: the new political system, which announced a general increase of human rights, has not «substantionally» improved ethnic minority protection.

Research in 1992 and 1994 suggests that the frequently expressed conviction about the model system of minority protection in Slovenia does not stand up to empirical examination. Research in Slovene Istra in 1994 found

154. Law on Self-Governing Ethnic Communities (Official Gazette of the Republic of Slovenia, No. 65/94) article 18, 2nd paragraph.

155. Official Gazette of the Socialistic Republic of Slovenia, No. 12/82.

that most of the Italian minority feel they have no influence in political life and no adequate role in shaping their own fate, and that the Republic pays more attention to Slovene minorities abroad than it does to minorities in its own territory.

—resum / resumen—

LA PROTECCIÓ DE LES MINORIES
ÈTNIQUES A ESLOVÈNIA I LA CARTA
EUROPEA DE LES LLENGÜES REGIONALS
O MINORITÀRIES

Miran KOMAC

La Constitució i la legislació eslovenes estableixen una àmplia protecció per a les anomenades *comunitats autòctones* o minories ètniques «històriques» d'Eslovènia (italians i hongaresos). També es garanteixen alguns drets a la comunitat gitana, però no a les anomenades *minories «noves»*, formades sobretot per membres d'altres nacions de l'antiga Iugoslàvia (croats, serbis, bosnis), ni a la comunitat de parla alemanya. La protecció de les minories hongaresa i italiana es veu reforçada per tractats internacionals amb Hongria i Itàlia. El model eslovè de protecció d'aquestes minories parteix del concepte de territori ètnicament mixt i el sistema de drets col·lectius que l'Estat atorga independentment del percentatge o de la força numèrica de les minories (de fet, d'acord amb el cens del 1991, 9.240 persones van declarar que la seva llengua materna era l'hongarès i 4.009 l'italià). La legislació presta una atenció especial al dret a l'ensenyament en hongarès i italià, garanteix l'ús dels símbols nacionals de les minories i preveu

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La Constitución y la legislación eslovenas establecen una amplia protección para las llamadas *comunidades autóctonas* o minorías étnicas «históricas» de Eslovenia (italiana y húngara). También se garantizan algunos derechos a la comunidad gitana, pero no a las llamadas «nuevas» minorías, formadas básicamente por miembros de otras naciones de la antigua Yugoslavia (croatas, serbios, bosnios), ni a la comunidad de lengua alemana. La protección de las minorías húngara e italiana está respaldada por tratados internacionales con Hungría e Italia. El modelo eslovveno de protección de estas minorías parte del concepto de territorio étnicamente mixto y el sistema de derechos colectivos que el Estado otorga independientemente del porcentaje o del peso numérico de las minorías (según el censo de 1991, 9.240 personas declararon que su lengua materna era el húngaro y 4.009 el italiano). La legislación presta una atención especial al derecho a la enseñanza en húngaro e italiano, garantiza el uso de los símbolos nacio-

la participació política de les comunitats hongaresa i italiana tant a escala nacional com local mitjançant un sistema de doble vot que garanteix la representació de la comunitat ètnica. Pel que fa específicament a les llengües, Eslovènia segueix de prop el que estableix la Carta Europea de les Llengües Regionals o Minoritàries, tractat que va ratificar el 2000. Les escoles dels territoris mixtos amb presència d'hongaresos segueixen un sistema bilingüe, mentre que en la comunitat italiana s'ha desenvolupat un sistema escolar monolingüe que inclou l'estudi de l'eslovè. La feble demografia impedeix l'ensenyament terciari en les llengües minoritàries, però hi ha convenis que faciliten els estudis superiors en universitats italianes o hongareses. Els membres de les minories lingüístiques també tenen garantit l'ús de les seves llengües en l'Administració, en els procediments judicials, en els documents d'identificació personal, en els mitjans de comunicació escrits i audiovisuals, i en activitats culturals i econòmiques. La legislació que regula l'ús de l'italià i l'hongarès a Eslovènia sembla suficient, tot i que la protecció de les minories ètniques no hagi millorat substancialment a partir de la independència del país. D'altra banda, hi ha una part de la legislació de protecció lingüística que no s'acompleix del tot i els membres de les minories —particularment els italians— troben que no se'ls presta prou atenció.

nals de las minorías y prevé la participación política de las comunidades húngara e italiana tanto a escala nacional como local mediante un sistema de doble voto que garantiza la representación de la comunidad étnica. Con respecto a las lenguas, Eslovenia sigue las directrices establecidas por la Carta Europea de las Lenguas Regionales o Minoritarias, tratado que ratificó en 2000. Las escuelas de los territorios mixtos con presencia húngara siguen un sistema bilingüe, mientras que en la comunidad italiana se ha desarrollado un sistema escolar monolingüe que incluye el estudio del esloveno. La débil demografía impide la enseñanza terciaria en las lenguas minoritarias, pero existen convenios que facilitan los estudios superiores en universidades italianas o húngaras. Los miembros de las minorías lingüísticas también tienen garantizado el uso de sus lenguas en la Administración, en procesos judiciales, documentos de identificación personal, medios de comunicación escritos y audiovisuales, y en actividades culturales y económicas. La legislación que regula el uso del italiano y el húngaro en Eslovenia parece ser suficiente, a pesar de que la protección de las minorías étnicas no haya mejorado sustancialmente a partir de la independencia del país. Por otro lado, partes de la legislación de protección lingüística no acaban de cumplirse y las minorías —particularmente la italiana— tienen la sensación de que no se les dedica suficiente atención.