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Inclusion and mobility in the multilingual region of Vojvodina

**At the intersection of international
minority rights law, state policies and local realities**

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International and internal mobility can result in both linguistic diversity and forced migration due to intended homogenisation efforts (e.g. “ethnic unmixing” in the successor states of former Yugoslavia). International minority rights instruments scarcely address the questions of mobility and multilingualism. Vojvodina is expected to be a multilingual region in Serbia, an EU-candidate state, according to the laws on language use. Recent migratory trends in Vojvodina – within Serbia and from Serbia to Hungary and other EU states – have changed the “identity landscape” of a region that possesses deeply anchored multinational–multilingual traditions. An important question, therefore, is how existing legal provisions on language rights could offer protection to minority language speakers. International actors also promote the respect for and protection of minority language rights, reflected in the broad political and normative commitments made by Serbia within the context of EU-accession process. However, this political objective is often not achieved, a frequently observed obstacle being that local authorities see any attempt at implementing those language rights more as a burden than an opportunity. This chapter addresses questions such as: How is the legal framework implemented in practice (*de iure* vs. *de facto* use of minority languages)? What influence may international norms have on language rights regime? What influence do kin-state policies have?

1. Introduction

Language diversity is often seen as an important element in the European integration project. This is particularly true of the European Union, which faces challenges in recognising ‘its rich cultural and linguistic diversity’ (TEU, 2012: Art. 3(3)) in building a European polity, while respecting its member states’ wide-ranging and often exclusionary language policies (Kraus, 2008). In Serbia, an EU candidate country, the multilingual region of Vojvodina offers an interesting case to analyse the effects of European integration on minority policies (Vizi, Tóth & Dobos, 2017). The complexity of international norms, EU conditionality, domestic practices and EU member states’ kin-state policies have a strong influence on the multilingual setting in the region. This chapter does not intend to offer a clear typology of the causal relationship between different kin-state policy strategies and socio-linguistic changes in Vojvodina. Instead, it identifies the different actors and legal/political dynamics that influence language use and the societal position of languages in the region.

In many respects minority language rights are contested, and even among EU member states they do not enjoy unanimous recognition. In the context of EU enlargement, EU institutions (in particular the Commission and the Parliament) make regular references to international standards on minority rights, and cooperation between the European Union, the Council of Europe and the OSCE in the field of human rights protection has been stepped up. State practices differ widely as to the interpretation and implementation of minority language rights, and most of the international documents on minority rights are legally non-binding soft-law instruments (the two major exceptions being the Framework Convention for the Protection of National Minorities (FCNM) and the European Charter for Regional or Minority Languages (ECRML) – see below).

European integration and accession to the EU is not only about the extension of a normative policy regime to candidate states. The EU’s economic and labour market opportunities have a serious impact on the migratory dynamics in applicant states’ societies. Moreover, the post-conflict political and social consequences of the break-up of Yugoslavia and the secession of Kosovo have dramatically influenced inter-ethnic relations and mobilisation dynamics in Serbia.

From a broader perspective, international and internal mobility may result in both linguistic diversity and forced migration due to intended homogenisation efforts (e.g. ‘ethnic unmixing’ in the successor states of the former Yugoslavia). There is both mobility-induced diversity and mobility-induced homogeneity. Language rights and language policies should ensure that the trade-off between mobility and inclusion properly reflects multilingual realities, and that the problem is not simply erased by assimilation.

The case study on the Serbian province of Vojvodina has confirmed the above mentioned tendencies. Recent migratory trends in Vojvodina – within Serbia and from Serbia to neighbouring and other EU states – have changed the ‘identity landscape’ of a region with deeply anchored multinational/multilingual traditions.

From 1989 onwards a strong centralisation process in Serbia resulted in the almost total elimination of Vojvodina’s provincial autonomy, and also minority rights were seriously cut back in comparison with communist Yugoslav times. Serbia’s nationalist policies and its isolation at international level during the post-Yugoslav wars had a very negative impact on minorities and multilingualism in Vojvodina (see Beretka, 2014). After the fall of the Milošević regime, Serbia’s foreign policy orientations and its domestic constitutional structure were completely redesigned, creating a more stable democratic and inclusive legal framework, including for minorities. The new constitution adopted in 2006 recognised minority language rights that have been translated into specific legal provisions. Not only domestic policy developments, but also international commitments have influenced developments in legislation on minority rights. Serbia has signed and ratified both the FCNM and the ECRML, and concluded bilateral treaties on minority rights protection. In addition, minority issues are also part of EU accession negotiations, resulting in the adoption of special policy measures aimed at improving the situation of minorities (Akcioni plan, 2016).

However, these international commitments do not offer a clear normative blueprint for the protection of minority languages. Regarding the use of (minority) languages, international human rights instruments focus on the communicative role of language and on the prohibition of discrimination. Much less attention is paid to the promotion of linguistic diversity, including regional or minority languages (RMLs), and to ensuring language rights. The purpose of, and instruments for, minority language rights protection are often debated.

Broadly speaking, there are two different approaches to minority rights: from an integrationist position, minority rights claims are acceptable until they are aimed at establishing self-governing or power-sharing arrangements. The right to use minority languages in education or in the public sphere may fit into this approach as a legitimate right. However, claims to regional official status for a minority language may be rejected on this basis. An accommodationist criticism focuses on the needs and claims of minority groups, irrespectively of their political content. Granting official status to a minority language could even be seen as an instrument for offering equal symbolic powers to minority and majority languages in a region. The criticism that European minority rights legislation has been ‘politically ineffective’ and ‘conceptually unstable’ reflects the gap between such legislation and the aspirations of certain minority groups (Kymlicka, 2008). Under the emerging European

minority rights regime both European international organisations and states tend to support an integrationist rather than an accommodationist approach to minority rights (Galbreath & McEvoy, 2012).

As regards the European Union, since the entry into force of the Lisbon Treaty, the values of the EU include 'respect for human rights, including the rights of persons belonging to minorities' (TEU, 2012, Art. 2.). The term 'minorities' is used without any qualifications, but it may be assumed that linguistic minorities are included in the concept. This may be linked to the recognition of the EU's 'rich cultural and linguistic diversity' (TEU, 2012, Art. 3(3)). This provision does not, however, establish a legal basis for EU legislation in the field of minority rights. Whereas Art. 19 of the TEU offers a solid basis for EU action against discrimination (among other things based on 'ethnic origin'), it does not mention language as a basis for discrimination. In contrast, the EU Charter of Fundamental Rights also prohibits discrimination based on language (Art. 21) and recognises respect for linguistic diversity (Art. 22). In this respect the European Union still applies double standards: whereas 'protection of minorities' is an accession criterion for candidate states, member states are no longer required to fulfil their minority protection commitments *after* joining the EU. Whereas EU institutions have done extensive work in the field of multilingualism and language learning (Commission, 2006, 2011), these initiatives have had a very minor impact on the situation of minority languages, since they promote all foreign, migrant or minority languages.¹ Although there have been various initiatives (mainly by the European Parliament) to provide financial support for regional or minority ('lesser used') languages since the 1980s, such support has decreased dramatically in the past 20 years (Gazzola, 2016).

Since it is important to understand how social inclusion and mobility can be interpreted under international minority rights instruments, we will start by addressing these issues separately, explaining why these documents fail to tackle the challenges of mobility. We will then clarify the particular role played by kin states in influencing the identity patterns and mobility prospects of minorities in particular cases. The second section of this chapter explores in detail the case of a multilingual region, Vojvodina in Serbia.

1. Implementation of these programmes largely depends on member states, many of which have no inclination to promote minority languages.

1.1 Inclusion and European minority rights instruments

International human rights instruments – the International Covenant on Civil and Political Rights, and the European Convention on Human Rights in particular – reflect a limited approach to language rights. Both the European Court of Human Rights (Nagy, 2018) and the UN Human Rights Committee tend to limit language rights to the prohibition of discrimination and only marginally accept claims to the effective promotion of minority languages. In a European context, we can make a distinction between a human rights approach and an identity rights approach to minority languages. The human rights model focuses on the communicative role of language and on social inclusion. Although the FCNM and the ECRML offer more detailed provisions on the protection and promotion of minority languages, they leave a large margin of discretion for state parties and *per se* cannot appropriately prevent the governmental promotion of linguistic assimilation (Patten, 2009).

Inclusion with respect to minority rights takes two main forms: inclusion of territorial minorities in the context of multi-level governance and federalisation processes (e.g. autonomy arrangements, see below); and inclusion in a host country, including traditional minority communities, of persons originating from other communities (whether from another part of the same state, or from another state). As for the latter, the very focus of the ECRML on ‘users’ of RMLs has an inclusive element: it encompasses not only those who speak the language, but also ‘non-speakers of a regional or minority language living in the area where it is used’ (Article 7.1 g), by setting objectives and principles in order to enable them to learn these languages, and therefore facilitating their inclusion in the minority community. This is important because genuine inclusion is a two-way process: it works towards including the minority into the majority and *vice versa*. Encouraging members of the majority to learn the languages of national minorities appeared as early as 1996 in the Hague recommendations by the OSCE High Commissioner on National Minorities (HCNM Hague Recommendations, 1996: 8), and the role of language as a key policy area of social integration was further elaborated in the Ljubljana Guidelines (2012). The latter document emphasises, *inter alia*, that ‘[s]tates’ policies should balance the need for one or more shared language(s) as a common basis for the integration and functioning of society with the obligation to safeguard and promote linguistic diversity, including by protecting the linguistic rights of minorities. Governments should provide accessible opportunities to learn the State language’ (HCNM Ljubljana Guidelines, 2012: 52). On the other hand, in light of the ‘mutual adaptation inherent in the process of integration’, the High Commissioner calls for state provisions encouraging members of the majority to learn minority languages (HCNM Ljubljana Guidelines, 2012: 54). In the same spirit, a 2017 recommendation by the Congress of Local and Regional Authorities called on member states of the Council of Europe

to develop better teaching methods in state language learning for minority students and promote RML learning among majority language speakers (CLRAE, 2017: 7). As far as the FCNM is concerned, inclusion only appears in the context of minority speakers' duty to learn the official language of the state (Article 14, para. 3), and as a warning that integration policies and practices can never go so far as to assimilate members of the minority – at least against their will (Article 5, para. 2). However, the fourth Thematic Commentary of the Advisory Committee on the Framework Convention (ACFC) emphasises that the main purpose of the FCNM is to 'promote dialogue in open and inclusive societies' (FCNM Commentary, 2016: 3.), and that its application should reflect the spirit of inclusion. This approach is also reflected in the two-decade monitoring practice of the ACFC which consistently encouraged state authorities to be inclusive when implementing the FCNM (FCNM Commentary, 2016: 6.), since the treaty has 'an immediate relevance for the whole society' (FCNM Commentary, 2016: 18). Although the FCNM does not *expressis verbis* contain a provision to that effect, the Advisory Committee has repeatedly 'encouraged measures that promote the knowledge and the use of minority languages by persons belonging to majority communities' (FCNM Commentary, 2016: 24). Furthermore, the Advisory Committee has supported inclusive language policies catering for the needs of 'everybody', including 'persons belonging to national minorities living outside their traditional areas of settlement, immigrants and "non-citizens"' (*ibid.*).

1.2 Mobility and European minority rights instruments

RMLs usually have strong territorial anchoring, so there is little flexibility in the mobility side of the inclusion/mobility trade-off because there is no real physical mobility involved. In fact, policy recommendations for regional and local authorities underline the importance of offering attractive conditions to RMLs which 'can act as a bulwark against work force or brain drain, by increasing the willingness to stay in the regions concerned' (CLRAE, 2017: 2). It should be emphasised that minority language rights inevitably have a geographic dimension: they are granted, funded, and implemented within particular polities. The ECRML, for example, intentionally builds upon the notion of territoriality: the term 'regional and minority languages' refers to languages that are traditionally used within a given territory of a state, whether or not they can be identified with a particular area of it. Furthermore, the Charter expressly excludes the languages of 'new minorities' from the scope of its protection (Article 1). However, signatory states may 'undertake to apply, *mutatis mutandis*, the principles listed in paragraphs 1 to 4 of Article 7 to non territorial languages' (Article 7, par. 5).

Similarly, the FCNM aims to protect national minorities 'within their respective territories' (preamble), and Article 16 expressly refers to areas inhabited by persons

belonging to national minorities. Although the treaty text does not contain a definition of national minorities, it is traditionally understood that mobile minority communities do not belong to them. However, the monitoring body of the FCNM has accepted a more flexible scope of application, and takes account of today's trends of migration and mobility: "[i]ncreased mobility in many countries has resulted in a high number of persons belonging to national minorities moving from areas of their traditional settlement to other regions that offer more favourable economic conditions or educational opportunities, such as industrialised areas or urban centres" (FCNM Commentary, 2016: para. 33). However, persons belonging to a national minority who live outside their traditionally established areas should not be disproportionately disadvantaged. According to the ACFC, "[i]n particular the fact that only some rights (that is Articles 10(2), 11(3) and 14(2)) allow for territorial limitations implies again that the applicability of other rights should not in principle be restricted to certain regions" (FCNM Commentary, 2016: para. 32).²

In any case, mobility is of minor relevance in international instruments on the protection of minorities. The few exceptions include paragraph 2 of Article 8 of the ECRML, which provides for teaching in or of the RMLs in territories other than those in which these languages are traditionally used. As explained in the Explanatory Report to the ECRML, this provision 'is motivated by the realization that in modern circumstances of mobility the principle of territoriality may no longer be sufficient in practice for the effective protection of a regional or minority language. In particular, a substantial number of speakers of such languages have migrated to the major cities' (ECRML Explanatory Report, 1992: 14).

The other provision of the ECRML, possibly relevant to mobility, relates to trans-frontier exchanges. Pursuant to Article 14, states undertake (a) 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, and (b) for the benefit of RMLs, to facilitate and/or promote cooperation across borders, in particular between regional or local authorities in whose territory the same language is used in identical or similar form. A similar provision on bilateral and multilateral agreements and transfrontier co-operation is found in Article 18 of the FCNM in order to ensure the protection of

2. In fact, the Committee holds that some rights in the FCNM (i.e. protection against discrimination – Article 6, and provisions related to mutual education and research of the language and culture of minority and majority communities, and the media as tools for integration – Article 12) should be applicable to all persons, including immigrants and 'non-citizens' (FCNM Commentary, 2016: 21–24).

persons belonging to national minorities. Transfrontier relations, however, are not necessarily linked to mobility, since relevant provisions promote access to services for people belonging to minorities regardless of state borders. The above-mentioned resolution of the Congress of Local and Regional Authorities invited local and regional authorities of the Council of Europe member states to improve regional and cross-border cooperation in order to provide access to services using RMLs in kin states (CLRAE, 2017: 4). This, in turn, leads us to the role of kin-state policies which is further elaborated in this chapter. The OSCE HCNM has produced a set of recommendations on this topic, the Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations (2008), although without any explicit reference to mobility.

2. Multilingualism, mobility and inclusion in Vojvodina

Vojvodina is a multilingual border region where modern settlements, migrations and assimilation processes have resulted in the formation of groups and communities with a mixed cultural repertoire (Tátrai, Kocsis, Gábrity & Takács, 2013).

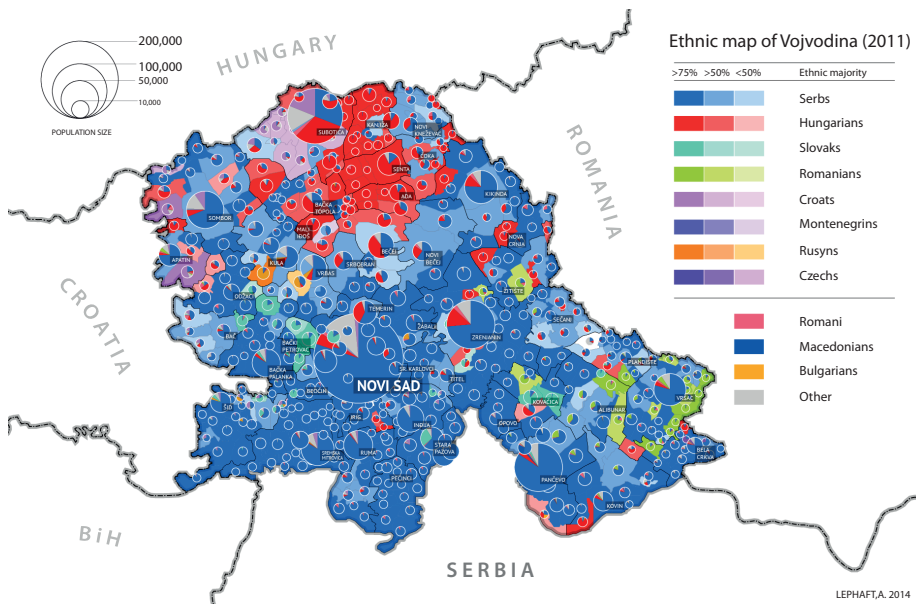


Figure 5.1 Ethnic map of Vojvodina

Source: Léphaft (2014)

Sociological surveys in the 1990s showed that besides Bosnia-Herzegovina, Vojvodina had the highest average inter-ethnic tolerance and the greatest national diversity within the former Yugoslavia. Levels of national tolerance have been influenced by the structural position of minorities and majorities at various administrative levels (Hodsen, Sekulic & Massey, 1994).

Field research in Vojvodina shows that some places display harmonious cohabitation of ethnic and linguistic communities, while elsewhere the changes in local population (following the influx of large number of Serb refugees from Croatia, Bosnia-Herzegovina or Kosovo) caused the ethnicisation of socio-economic conflicts (Tátrai, Kocsis, Gábrity & Takács, 2013).

The 2011 census data reflect the heterogeneity of Vojvodina, where less than 67% of the population declared themselves Serbs. National minorities include Hungarians (13%), Slovaks (2.6%), Croats (2.43%), Roma (2.19%), Romanians (1.32%), Montenegrin (1.15%), Bunjevci (0.85%), Ruthenians (Rusyns) (0.72%), and a few smaller communities (Republički zavod za statistiku, 2012). Vojvodina's multi-ethnic fabric differentiates the autonomous province from the rest of Serbia. 41 of Vojvodina's 45 local municipalities can be considered multi-ethnic (i.e. more than 5% of the local population belongs to one minority group, or all minorities together make up more than 10% of the local population), while the number of multi-ethnic municipalities in the rest of Serbia (not including Kosovo)³ is only 27 out of 167 (Beretka & Székely, 2016). The question is whether the sociological reality of multilingualism is reflected in legislation and translated into practice during everyday encounters with public service providers and authorities.

Unfortunately Vojvodina's unique multilingual character is not reflected in the allocation of competences between the central government and the provincial government. Although the region enjoys some autonomy, this seems to be of an administrative nature, as only the Serbian Parliament has the right to adopt laws and is entitled to implement them. Thus Serbia could be described as an asymmetrically decentralised unitary state with a unitary legal system. The Assembly of Vojvodina can only regulate issues falling within its competence under legislation, which must be in accordance with the Constitution and state laws. Opportunities to regulate an issue differently in the province than in other parts of Serbia are very limited (Beretka & Székely, 2016). The Serbian Constitution guarantees the right of citizens to provincial and local autonomy (Art. 12) and it also states that "autonomous provinces shall ensure the exercise of human and minority rights, in

3. Kosovo declared independence in 2008, and by 2020 was recognised by almost 100 states, whereas Serbia has so far refused to do so. Under the Serbian Constitution (Art. 182) Kosovo is an autonomous province with a 'special status'; however, what exactly this means needs to be regulated by a separate law that has not yet been adopted.

accordance with the Law” (Art. 183 (3)). The specific competencies of the autonomous province were adopted in a separate law in 2009 by the Serbian Parliament (Official Gazette of the Republic of Serbia, 2009) and regulated by the Statute of the Province, adopted by the Provincial Assembly. Largely because of party-political conflicts between the central government and Vojvodina, both laws have been challenged before the Constitutional Court for review of constitutionality (Beretka, 2014: 257). The Constitutional Court’s decision reflected a restrictive interpretation of the constitutional provisions on provincial autonomy. It declared that, since any provincial competence can be exercised in accordance with state law, there are essentially no exclusive provincial competencies; this means that the province has limited competences to grant some additional rights, including linguistic ones, to minorities living on its territory.

The language regime of Serbia reflects a combination of territorial and non-territorial approaches to autonomy arrangements. Serbia limits the territories where minority language rights can be claimed (ECRML ExCom, 2009: 7, para. 29.). According to the state-level threshold rule, a national minority’s language is in official use in local self-government units (LSGUs) which are inhabited by more than 15% of persons belonging to the respective national minority, based on the latest population census (Službeni glasnik RS, 2010: art. 3). The Provincial Assembly of Vojvodina has introduced another threshold and permitted national minority languages to be in official use in settlements or villages if they are inhabited by more than 25% of persons belonging to a national minority in accordance with the data of the last census (Official Gazette APV, 2012: art. 8[3]). Currently 9 national minority languages are in official use in one or more of the 45 LSGUs in Vojvodina.⁴

Under these circumstances, Grin’s (2011: 29) recommendation seems to be particularly relevant: “territoriality ... can prove highly flexible and be reconciled with linguistic diversity if the language regime is modulated by exploiting different tiers of government, by fine-tuning the allocation of competences between these authorities and building in asymmetries in favour of languages seen as weaker and most in need of protection.”

The constitutional uncertainties regarding the division of competences between the central government and the Autonomous Province of Vojvodina do not help preserve and promote traditional multilingualism in the region. In 2009 the Constitutional Court’s ruling forced the Provincial Assembly of Vojvodina to repeal its decision on detailed regulation of language rights of national minorities settled in its territory. Hence the Constitutional Court limited the legislative powers of the autonomous province and its opportunities to improve conditions of

4. The Hungarian language is in official use in all or part of 31 LSGUs, Slovak in 13, Romanian in 10, Ruthenian in 6, Croatian in 4, Macedonian in 2, and Czech, Montenegrin and Bulgarian in 1 (APV, 2017).

multilingualism to simple repetition of state laws (Official Gazette of the Republic of Serbia, 2012). Although the European Union obliged the Serbian government to adopt an Action Plan for Exercising the Rights of National Minorities (Akcioni plan, 2016) in order to open negotiations on Chapter 23, ‘Vojvodina’s future contribution to the implementation of [the plan] is deemed to be negligible, because instead of regulation, control or soft law measures taken in order to improve enforcement of language rights, Vojvodina is only required to provide financial support for local municipalities in its territory’ (Beretka, 2016: 528–529).

Interviews, assessed reports and documents, and participating observations during field research⁵ allow us to highlight the relationship between *de jure* and *de facto* situations concerning the use of minority languages, as well as connections with domestic and cross-border mobility and social inclusion. The role and impact of various actors (including conditionality of international organisations, language policies of Serbia, kin-state activities by Hungary, Croatia and other countries, monitoring work and legal assistance by the provincial ombudsman and NGOs, individual choices and adaptation strategies or ‘navigation’) are inseparable when shaping multilingualism in practice (see Kraus & Grin, 2018).

From a *practice-based* point of view, “the crux of the minority problem is not to establish rights on paper, but to make sure that they are operative – in other words, to establish guarantees” (Toynbee, 1992: 323). Serbia’s legal framework on national minorities not only supports the rights guaranteed by the ECRML, but in fact provides a higher level of protection. However, legal provisions are not consistently implemented (Szerbhorváth, 2015), which is justified by the fact that in 2015 almost 42% of the complaints concerning minority rights submitted to the provincial ombudsman referred to the use of languages (Pokrajinski zaštitnik građana, 2015; Ombudsman, 2016: 85–87). Problems arise in various fields of language use: linguistic landscape (public signs and street names),⁶ communication with public

5. Interviews were conducted by Edgár Dobos in September 2010, July 2013, June 2015 and May 2016. The selection of informants and sites aimed at reflecting the variety and heterogeneity of positions in terms of (a) ethnicity (e.g. Bosniak, Bulgarian, Bunjevci, Croat, Hungarian, Serb, Slovak positions), (b) locality (settlements with different ethnic structure and minority/majority positions), (c) level of agency (local-, provincial-, national- and international-level actors as well as kin-state representatives), and (d) professional background (e.g. legal experts, officials, politicians, teachers, activists, ordinary people, etc.).

6. Inconsistency and inaccuracy are typical problems. In many places the name of the public office is displayed in the minority language but the name of the city remains in Serbian. To mention some examples with reference to a primary school, a public library and a tax bureau: ‘Bratstvo-jedinstvo Általános Iskola – Belo Blato’ (instead of the Hungarian ‘Testvériség és Egység Általános Iskola – Nagyerzsébetlak’) (see Figure 5.2); ‘Népkönyvtár – Bela Crkva’ (instead of the Hungarian ‘Népkönyvtár – Fehértemplom’); tax bureau: ‘Adóhivatal – Kovin’ (instead of the Hungarian ‘Adóhivatal – Kevevára’).

authorities and officials (hospitals, post offices, judicial proceedings), proportional representation of national minorities among employees (see below), textbooks and language of instruction in schools, translation of personal documents and transcription of names. Several factors contribute to the implementation gap: (a) lack of will among authorities and officials who perceive minority language speakers as a problem rather than a positive resource, and the ‘extra’ services that would meet their needs as a burden; (see Kontra, Philippson, Skutnabb-Kangas & Várady, 1999: 6), (b) politics (political image of Serbia as the state of Serbs, powerful linguistic ideology emphasising the primacy of the Serbian language), (c) lack of legal consciousness (many persons belonging to a national minority are not aware of their language rights), and (d) local and regional branches of the republic’s central institutions (tax bureaus, employment agencies, pension funds, institutes of geology etc.) are not sensitive to the local context with national minority languages in official use.⁷



Figure 5.2 The primary school in Belo Blato (Nagyerszébetlak)

Source: photograph by Edgár Dobos.

In principle, everybody has the right to use his mother tongue in court, the police station, the land registry and hospitals, to receive bills and other documents from post offices and gas and electricity suppliers in national minority languages in official use, or to receive information about their medical condition in a language they understand. However, when there are no staff who can speak national minority languages in official use, clients, customers, or patients are required to use

7. Contrary to public perception, the lack of financial resources is not the main obstacle to the application of language rights.

the Serbian language in order to get any information (Ombudsman, 2016: 35). In reality, pseudo-multilingual or *de facto* monolingual practices prevail over genuine multilingualism.

2.1 Social inclusion and the proportional representation of national minorities

Rules and practices governing language use in administration, law, education, media, public signage and communication with authorities and public service providers affect the interests and identities of people. Language is therefore unavoidably politicised in multilingual societies. Majority and minority perspectives often conflict over the interpretation of reality and/or the desired model of state/minority relations. The proportional representation of national minorities among civil servants or employees of public bodies is one of the instruments that may counterbalance the disadvantages based on language, and safeguard successful inclusion and actual participation of national minorities in social, political, economic, and cultural life.⁸ In this connection, the HCNM *Ljubljana Guidelines* have emphasised that effective participation in social and economic life includes the promotion of ‘labour market inclusion of minority groups with disproportionately low participation’ (HCNM *Ljubljana Guidelines*, 2012: Art. 40). According to the Constitution and the laws of Serbia, public authorities and organisations providing public services must ensure proportional representation of national minorities among their employees (Constitution of Serbia, 2006: Art. 77[2]). Moreover, in order to exercise the right to use the mother tongue, they have to employ officials and staff who understand and speak national minority languages (Službeni glasnik RS, 2010).

However, there is a significant gap between these requirements and actual practice (Pokrajinski zaštitnik građana, 2015). There are three barriers to the application of legal standards. First, belonging to a national minority and speaking the language of a national minority are not overlapping categories. On some occasions, e.g. in the police, instead of hiring members of national minorities, they offer a minority language learning course, although the efficiency of such measures is questionable (see Rácz, 2012). Second, under Serbia’s Constitution (Article 47.2) “no person shall be obliged to declare his national affiliation”. Hence it is impossible to know the precise number of public servants belonging to minorities, which is a serious

8. Successful inclusion ‘implies a feeling of belonging and of being accepted, as well as actual participation ... in the social, political, economic, and cultural life of the country, region and local area of residence. This feeling of “belonging”, which is a marker of successful inclusion, needs to be safeguarded for different types of constituencies, whose specific needs may be different’. MIME, 2017. 6.

practical obstacle to the application of the proportionality principle.⁹ Third, there is no legal mechanism to check anyone's command of a national minority language. Laws neither require proof of language knowledge in case of employment in the public sector, nor require public service providers to hire staff competent in minority languages. Although national minority language skills may appear 'desirable' in employment specifications, language criteria or language tests cannot be prescribed (Beretka, 2016: 519).

Legal incoherence undermines social inclusion: persons belonging to national minorities may feel compelled to request legal assistance, use informal networks or opportunities provided by kin states, or choose assimilation when they face ethnic-based social exclusion and practical obstacles in their problem-solving efforts on a daily basis.

2.2 Migratory pulling forces and kin-state policies

As a result of redrawing borders and population displacements, sections of linguistic and cultural communities have found themselves cut off from the states where the relevant majority communities live. For this situation, Brubaker (1996) used the terms 'kin state', 'national minority' and 'nationalising state', whereas the Venice Commission (2001) used the terms 'kin state', 'kin minority' and 'home state'. This 'triadic relationship' characterises many contexts in Central and Eastern Europe,¹⁰ but the observable reality is much more complex. Acknowledging the fact that there are international actors (e.g. the EU) shaping these interactions and dynamics, thereby widening the triadic model into a quadratic one,¹¹ and also taking into account the heterogeneity of the various 'fields', the following cases can be distinguished:

9. The Constitution of Serbia is not the only constitution with structural contradictions. An illustrative example is the Constitution of Bosnia-Herzegovina (Annex IV to the Dayton Peace Agreement).

10. Not everywhere does the concept of kin state make sense. For instance, French-, Italian- or German-speakers living in Switzerland neither consider themselves French, Italians or Germans, nor regard neighbouring countries as their kin states. In fact, and apart from the temporary occupation of some cantons during the Napoleonic wars, the French-, Italian- or German-speaking parts of Switzerland were never part of France, Italy or Germany, and as the case of Switzerland illustrates, a shared language does not necessarily imply a common history or identity. See Wimmer, 2011.

11. The model is, of course, an over-simplification: 'the international community' (or 'the EU') also represents a very heterogeneous field of different actors and interests. See Smith, 2002, and Krasniqi, 2013.

- a. Autochthonous/national minorities that had majority nation status before the redrawing of state borders. Even if they ended up under the sovereignty of another state, where they do not constitute the 'titular' nation, they have preserved their national consciousness. Although they are classified as national minorities within the legal and political order, from an analytical view 'minority nation' or 'co-nation' (Kymlicka & Opalski, 2001) would be a more precise term for them in the social and cultural sense. They are part of a 'divided nation' (McGarry & O'Leary, 2013) who consider their former home state their kin state. Examples include Hungarians in Vojvodina (Serbia) and Transylvania (Romania).
- b. Autochthonous/national minorities or co-nations that consider a neighbouring state their kin state although they never lived under the sovereignty of that state; the place where they live historically was never (or only for a short period) part of that putative kin state. They consider the majority nation of that neighbouring state their ethnic kin and this sense of being part of the same nation is mutual, despite both their situational stigmatisation by the trans-border ethnic kin and their cultural similarity with their co-habitants in their home state. Bosnian Croats and Bosnian Serbs illustrate this pattern, who are two of the 'constituent nations' of Bosnia besides the (Muslim) Bosniaks, and in fact it is the internationally brokered Dayton Peace Agreement that allowed the maintenance of 'special relations' between the neighbouring states (Serbia, Croatia) and the two entities of Bosnia-Herzegovina (the 'Republika Srpska' and the Bosniak-Croat Federation) (Fraser, 2013).
- c. The concept of kin state does not apply to all autochthonous/national minorities. There are also 'claimed co-ethnics', who maintain a sense of separateness (distinctiveness) and refuse to identify with the putative kin state or kin nation, or to participate in its cross-border nation-building project. This lack of reciprocity can be observed in the case of Bunjevci (Vojvodina/Serbia and Hungary) in relation to Croatia; Slavic-speaking ex-Yugoslav Muslims, e.g. Torbeši (Macedonia), Goranci (Kosovo) or Muslims (Montenegro) in relation to Bosniaks; or Vlachs (Vojvodina/Serbia) in relation to Romania (Stjepanović, 2015; Friedman, 2016). These minority groups in liminal or in-between situations may be exposed to loyalty pressures and homogenisation efforts by both the kin and the host state. There is a complex interplay and tension between their local practices of self-identification and the top-down mechanisms of competing nation-building projects. In the case of Vojvodina, the relationships between Vlachs and Romanians and between Bunjevci and Croats illuminate these dynamics well.

For instance, Romania threatened to use its veto right during Serbia's EU accession talks¹² unless Serbia changed its policy towards the Vlachs, a group considered by Romania to be the descendants of Romanised people, part of the cross-border Romanian nation, and not recognised as a distinct national minority.

The relationship between Croats and Bunjevci has acquired an interesting political dimension. The content and script of textbooks can be a highly contested issue in a border region where ambivalent identities and loyalties are endangered by competing nation-building projects. The attempts to introduce textbooks in Cyrillic letters to Bunjevci children provoked immediate and fierce reactions from prominent Croat politicians who regarded this gesture as an insult, and claimed Bunjevci to be part of the Croat nation and their script to be Latin rather than Cyrillic.¹³

It is of utmost importance to focus on the local effects of kin-state policies and cross-border nation-building activities, especially extraterritorial citizenship policies. An interesting finding is how the acquisition of citizenship of neighbouring EU members is used as a tool for labour migration within the European Union. Bulgaria, Croatia and Hungary are happy to provide benefits and institutionalise relations with their cross-border kin communities, whereas many inhabitants of Vojvodina and Southern Serbia mobilise their language skills, family histories and personal connections in order to acquire EU citizenship via Hungarian, Croat or Bulgarian citizenship (Pogonyi, 2017). The fact that labour migrants from Vojvodina often use social networks and experiences from the former Yugoslav 'guest worker' era suggests that ethnic and linguistic social networks seem to be the most efficient vectors of inclusion and employment for newcomers.¹⁴

Local minority representatives noted in their interviews that many young Hungarians are planning to leave or have already left Serbia in order to find jobs in an EU member state that is not necessarily Hungary. Similar dynamics were observed within the Bulgarian and Croatian communities in Serbia, with Germany and Austria having been mentioned as the most popular destination countries.¹⁵ Apparently young minority-language speakers (whether or not belonging to the minority in question)

12. On EU conditionality and the protection of national minorities, see Csergő & Vangelov & Vizi, 2017; Vizi & Tóth & Dobos, 2017.

13. Representatives of the Croat community in Serbia raised the issue of textbooks with Latin letters during the drafting process of the Action Plan for Exercising the Rights of National Minorities (*Akcioni plan*, 2016). Interview and personal communication with Brigitta Toldi (Hungarian Language Office) and Katinka Beretka (legal expert), Subotica (in Hungarian *Szabadka*), May and June 2016.

14. Interviews by Edgár Dobos, May 2016.

15. *Ibid.*

respond adaptively to the changing conditions that open up new opportunities within the EU's labour market. The migration of young and talented members of minority communities may result in a lack of minority language-speaking personnel at courts, hospitals, universities, post offices, etc. Labour migration thus reduces the population of some minority communities and therefore their chances of survival.¹⁶

Opportunities for cross-border mobility opened up by acquisition of Hungarian citizenship have resulted in growing prestige for the Hungarian language. As conditions for the acquisition of Hungarian citizenship by facilitated naturalisation are based on citizenship of the Hungarian kingdom before 1920 rather than ethnicity, knowledge of Hungarian also becomes attractive to non-Hungarians. A similar phenomenon can be observed in Niš and its environs, where many Serbs attempt to find Bulgarian relatives in order to acquire Bulgarian citizenship. In fact, the local Serbian dialect is quite close to the Bulgarian one, which makes it relatively easy to transcend language boundaries.¹⁷

3. Concluding remarks

The case of Vojvodina shows that formal adherence to international standards does not guarantee the effective implementation of minority rights in domestic settings. Governmental negligence, the vague formulation of specific language rights, and the social and political prioritisation of the state language may exert a dominant influence on language-use patterns. At the same time, kin-state support for minorities, especially the practice of facilitating naturalisation, has become a major driving factor for migration. Access to citizenship of EU member states has proved to be a mobilising force, especially among young people. In this context, minority language becomes a tool for labour migration, and for migrating members of minorities the EU is considered a single market, without preference for the kin states. Assimilationist practices and migration largely contribute to the linguistic homogenisation of the multilingual Vojvodina region in Serbia, regardless of the legal protection of minority languages.

The macro environment is not always helpful: international minority rights legislation is often contested and subordinated to geopolitical interests. Without a robust and common European minority rights regime, EU member states – and in

16. Although the 15% threshold rule is based on the latest population census, the status of a national minority language in official use cannot be endangered by population loss, since national minority (language) rights are 'vested rights' within Serbia's legal order. See Beretka, 2016; Szerbhorváth, 2015.

17. Personal communication with Ana Veljković (a native of Niš and a graduate student at the University of Glasgow), Budapest, June 2016.

practice also EU candidate states – remain unaccountable for failure to implement minority protection commitments, and domestic party politics often outweigh the influence of EU legislation.

In domestic settings, ethnic and linguistic pluralism should be reflected in policies that exploit different tiers of government (national, regional and local), fine-tune the allocation of competencies between these authorities, and build in asymmetries in favour of languages most in need of protection.

Accepting local initiatives could also open the way for a more flexible approach to recognising official languages at regional and local levels: for example, where minority-language users are numerous and/or the minority exceeds a certain proportion, and minority representatives so request, the minority language should be declared a regional official language. This could be particularly useful and offer mutual benefits in border regions where minorities live. Policies related to multilingualism should also reflect a complementary ('additive') rather than exclusionary ('subtractive') approach, allowing the learning of the state language as a second language essential to employment and social mobility, while reinforcing the mother tongue as a first language essential to identity, psychological and security needs.

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