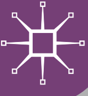

Realising Linguistic, Cultural and Educational Rights Through Non-Territorial Autonomy

Edited by
David J. Smith
Ivan Dodovski
Flavia Ghencea

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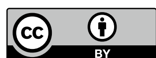

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Introduction: Realising Linguistic, Cultural and Educational Rights Through Non-Territorial Autonomy

David J. Smith and Ivan Dodovski

This volume brings together a body of expertise gathered within ENTAN—European Non-Territorial Autonomy Network (www.entan.org), a European Cooperation in Science and Technology (COST) Action dedicated to analysing the concept of Non-Territorial Autonomy (NTA) and its potential to accommodate the needs of different ethno-cultural and ethnolinguistic communities within a single state framework. Associated in terms of its origins with ideas developed by Austrian Social Democrats Karl Renner and Otto Bauer during the final years of the Habsburg Empire, NTA was originally conceived as a way of resolving rival group-based claims for territorial sovereignty. Seeking to break the conceptual link between ethno-cultural nationhood and claims to the exclusive ownership of a given territory, Renner and Bauer defined nations as voluntarily constituted 'communities of persons'. Each such community, they argued, should have the right to create institutions of cultural self-governance encompassing all citizens professing membership of the relevant group, irrespective of where they reside within the overall state territory (Bauer, 2000; Renner, 2005). While this NTA model was never fully

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adopted within a Habsburg context, it has continued to inform policy and practice on the management and accommodation of ethnic diversity into the third decade of the twenty-first century. Today, the NTA label is applied to a broad spectrum of arrangements across the world. Particularly noteworthy has been its widespread adoption in Central and Eastern Europe and the Western Balkans during the period following the collapse of communism, which has helped to inspire a renaissance of scholarly interest in the concept since the start of the 1990s (Prina, 2020; Smith, 2020). This is epitomised not least by the work of ENTAN: since its establishment in 2019, the Network has brought together more than 100 experts from 36 countries, who continue to advance the state of the art in NTA research.

The present volume comprises a selection of peer-reviewed papers originally presented at the Third ENTAN Conference, hosted by Ovidius University, Constanţa, on 13–14 May 2022. The conference took place against the backdrop of Russia's ongoing war against Ukraine, whose border with Romania lies just 200 kilometres north of Constanţa along the Black Sea Coast. Catastrophic for Ukraine and evoking concerns around European security and stability more broadly, the current war testifies to the terrible consequences that can ensue when a state instrumentalises—indeed, weaponizes—minority issues in pursuit of external geostrategic or domestic political objectives. As such, the war should serve to further underline the importance of exploring and disseminating information regarding good-practice arrangements and multilateral approaches that support the sustainable accommodation of diversity. This was the message imparted by the Conference in Constanta, which attracted wide public interest, including from local media. In attendance alongside 32 in-person and online academic participants from 20 countries were the Secretary of State in the Department for Interethnic Relations of the Romanian Government and a Deputy from the Romanian Parliament representing the Democratic Union of Turkish-Muslim Tatars in Romania. As well as affirming the principles of diversity accommodation central to ENTAN's mission, these speakers acquainted delegates with local arrangements within the surrounding local region of Northern Dobruja, one of the most multicultural within Romania.

The first ENTAN Conference held in Belgrade in 2019 explored NTA as a form of plurinational democracy, and it was followed by the publication of *Non-Territorial Autonomy in Theory and Practice: A 2020 Report* edited by Marina Andeva. The second ENTAN Conference held in Budapest in 2021 was dedicated to NTA as an instrument for the effective participation of minorities, and resulted in a conference proceedings volume edited by Balázs Vizi, Balázs Dobos and Natalija Shikova. The Third Conference, led by ENTAN's Working Group on Cultural Identities, shifted the focus of discussion towards how and in what contexts different modalities of NTA can enable the practical realisation of minority linguistic, cultural, and educational rights. This theme was considered especially timely and relevant given that

on 1 March 2023 it will be 25 years since the Council of Europe Framework Convention on National Minorities (FCNM) and the European Charter for Regional and Minority languages (ECRML) first came into force. With the FCNM having been ratified by 39 states and the ECRML by twenty-five at the time of writing, these two instruments provide relevant benchmarks against which to assess the efficacity of various NTA-style arrangements across Europe.

At the level of general principles, the FCNM emphasises the importance of linguistic rights in relation both to Articles 3 and 5 (preservation of a person's identity or identities) and to Articles 4 and 6 (non-discrimination and the promotion of full and effective equality). This importance is reiterated in Articles 9–17 concerning access to the media, public and private use of languages, education, and effective participation (Advisory Committee, 2012; Council of Europe, 1995). The FCNM similarly covers the right *to* education (good quality, free primary and general and equal access to secondary) as well as rights *in* education (how such education should be shaped in terms of content as well as form), setting obligations—complementary to those under ECRML—regarding teaching *in* and teaching *of* minority languages in public and in private schools and at all levels. Also emphasised is the obligation to pursue *intercultural* education in curricula, as part of a whole-society approach aimed at increasing mutual knowledge and tolerance and encouraging dialogue between groups (Advisory Committee, 2006; Council of Europe, 1992, 1995).

The extent to which NTA can be seen to embody and deliver on these normative principles constitutes a common thread running across the contributions to this volume, which discuss a range of cases spanning northern, western, central and eastern and south-eastern Europe. At the same time, these contributions convey the range of different meanings attached to NTA, a concept which has remained beset by an 'absence of conceptual clarity' (Malloy, 2015, p. 3). Until comparatively recently, NTA was predominantly understood through the prism of ethnic conflict regulation and state security and integrity, as a catch-all alternative to what was perceived as the more politically destabilising option of territorial autonomy (Coakley, 2016; Roshwald, 2007). Already implicit in Renner and Bauer's (failed) vision of reforming the Habsburg state within its existing territorial boundaries at the start of the twentieth century, such thinking resurfaced during the 1990s in response to the welter of ethnonational claims that arose in central and eastern and south-eastern Europe during and after the fall of communism and the demise of the USSR and Yugoslavia. It has, however, since been comprehensively debunked by a range of authors arguing from both a practical and a normative standpoint (Bauböck, 2001; Kymlicka, 2007; Purger, 2012). Today it is widely held that while NTA may be well-suited to the needs of some smaller and territorially dispersed minorities, in other contexts it is best regarded as a *complement* to territorially based arrangements rather than as some kind of 'one-size-fits-all' approach to containing national minority demands within

sovereign states (Palermo, 2015; Purger, 2012). This view is indeed reflected in ECRML, which clearly distinguishes between the needs of 'non-territorial' minority languages and those that can be clearly identified with a particular area of a state. The interrelationship between territorial and non-territorial linguistic, cultural and educational rights provision is also reflected upon from a variety of angles within the present volume, in the contributions by David J. Smith, Valentina Cornea et al., Konstantinos Tsitselikis and Natalija Shikova & Immaculada Colomina Limonero.

The blurring of the 'territorial vs. non-territorial' binary reflects a broader shift in the literature away from security and towards greater consideration of whether and how NTA can actually empower minorities to realise their rights as part of 'normal', everyday democratic politics (Malloy et al., 2015; Marsal, 2020; Smith & Hiden, 2012). As the contributions to this volume make clear, however, in a situation where international legal norms retain a vague framework character that affords wide latitude to individual states in terms of legislation and its implementation, attention to specific institutional and political contexts becomes crucial when assessing the actual practice (or potential) of NTA in this regard. In relation to central and eastern and south-eastern Europe, for instance, conceptualising NTA as a category of *practice* rather than a category of analysis (Osipov, 2018) has proved effective in bringing to light inherited legacies of communist (and pre-communist) systems of governance that reified ethnicity as part of a strategy of top-down control by the state, as well as the 'hidden agendas' (Malloy, 2015, p. 3) of different political actors and their impact upon the everyday situation of persons belonging to minorities. These issues, it need hardly be added, are not merely confined to the post-communist world, but have wider relevance across all the regions considered in this volume. One especially novel and interesting feature of the collection is the consideration given to the role of external 'kin-states' and the important implications (often in the form of 'collateral damage' [Prina, 2020]) this carries for the practice of NTA and the overall situation of minorities in different contexts. This is a theme addressed by David J. Smith and Andreea Udrea in relation to Hungarian minority autonomy in Serbia and Romania respectively, Martin Klatt in his consideration of the Danish-German borderland, and to some extent by Oskar Mulej in his analysis of Sudeten German NTA proposals in 1930s Czechoslovakia.

The opening two chapters of this volume explore NTA and linguistic and educational rights provision from a comparative and cross-regional perspective. Vladimir Đurić and Vasilije Marković analyse the institutionalised NTA arrangements that currently exist in Finland, Hungary, Serbia and Slovenia and their role in implementing linguistic rights, focusing on the overarching legal framework and the public powers exercised by NTA bodies. Delving further into two of these case study countries, David J. Smith then assesses the efficacy of NTA as a modality for ensuring meaningful minority cultural self-determination, through a reflection on the very different contexts of Serbia

(Hungarian NTA arrangements in Vojvodina) and Sápmi (Sámi NTA arrangements in Norway, Sweden and Finland). While one of these cases concerns a territorially concentrated national minority population and the other a territorially dispersed indigenous people, Smith finds that both illustrate the practical difficulties inherent in any attempt to decouple territorial and national politics along the lines originally suggested by Renner and Bauer.

Smith's discussion of Hungarians in Serbia also introduces the role that external kin states can play in nurturing but also (in many cases) undermining minorities' distinctive cultural identities and claims to agency. Martin Klatt develops this dimension further through a discussion of NTA arrangements in the Danish-German borderland of Schleswig. Focusing on the dispute over school funding that arose in Schleswig–Holstein during 2010, Klatt shows that even this widely acknowledged best-practice NTA arrangement raises important questions about the respective responsibilities of kin states and states of residence vis a vis cross-border ethnic groups. Andreea Udrea develops this point further in her chapter on Hungarians in Romania, arguing that, far from facilitating autonomy and agency, kin- and home-state policies have served merely to enmesh the minority in a nexus of dependence. In the chapter that follows, Oskar Mulej discusses how, in interwar Czechoslovakia, the originally intended liberal purposes of NTA were subverted by the far-right Sudeten German Party (SdP). In 1937, the SdP—a party claiming to represent an archetypal kin minority of the interwar period—advanced legislative proposals which, based on an involuntary, binding and essentialising definition of nationality, would have transformed Czechoslovakia into a federation of autarchic ethnonational communities. In so doing it rejected the path of accommodation within the democratic Czechoslovak nation-state in favour of allegiance to an ethnicised—and transnational—conception of *Volksgemeinschaft* that was gaining ever greater traction following the rise to power of the Nazis in Germany. In this way, Mulej's chapter underlines how illiberal, groupist notions of NTA (and their circulation across state borders) can challenge liberal states and societies. While it relates to a historical example, it also carries clear resonances for contemporary debates, given the increasingly egregious violation of liberal minority rights norms demonstrated by many of today's kin states.

The remaining chapters of the volume all offer case studies of NTA and linguistic, cultural and educational rights in relation to individual states and minority groups. The first of these, by Valentina Cornea, Mirela Paula Costache and Andreea Elena Matic, provides an interesting counterpoint to Udrea's earlier discussion of Romania. While a formal draft law on minority NTA—first presented to parliament in 2005—still remains in abeyance, Cornea et al. adopt a New Public Management approach in order to argue that Romania's decentralised administrative system has created at least the premises and a favourable context for the development of minority NTA. This is followed by Konstantinos Tsitselikis' diachronic analysis of how minority linguistic rights have developed in Greece, which, along with France, is an

example of a longer-standing member of the Council of Europe that has adopted neither the FCNM nor the ECRML. In this regard, its approaches to minority linguistic protection have remained rooted in the 1923 Treaty of Lausanne, wherein they continue to rest on a 'fragmented and ambivalent' combination of territorial and non-territorial elements.

Katinka Beretka goes on to further develop the volume's discussion of NTA in Serbia, through an in-depth practice-focused analysis of the two Linguistic Rights strategies adopted to date by the country's Hungarian National Minority Council. Ljubica Djordjević then adopts a similar approach in relation to NTA practices in Slovenia, using the regular monitoring reports produced by the Advisory Committee to the FCNM as a basis for the first systematic assessment of the actual impact that Italian and Hungarian Self-Governing National Communities have carried for minority protection. In a similar vein, Balázs Dobos analyses how the growing institutionalisation of NTA in Hungary has impacted upon the linguistic, cultural and educational rights of minorities within the country. He discerns an uneven picture across different minority communities, introducing also the example of the Roma, which provide the focus for the final chapter by Natalija Shikova and Immaculada Colomina Limonero. Here, in a ground-breaking West–East comparison of the issues faced by Roma communities in Spain and North Macedonia, the authors restate the case for Roma NTA in two contexts where linguistic and other rights are generally provided through the territorial paradigm. Despite the many problematic issues that have been documented with regard to already existing forms of Roma NTA in Hungary and elsewhere, the authors maintain that this approach remains relevant in terms of delivering the vision of minority rights embodied by FCNM and ECRML.

Indeed, the application of NTA in diverse historical and contemporary contexts invites closer consideration precisely because of its promise to provide answers to recent challenges (Dodovski, 2021). This volume comes in the wake of an expanding body of scholarship which appraises NTA not only as a facet of autonomy but also as a field of study in its own right (Prina, 2020). We hope that it may also foster further interest in the study and application of non-territorial autonomy and reinvigorate the discussion about linguistic, cultural and educational rights of minorities by offering research ideas and findings, both multidisciplinary and interdisciplinary, so as to develop new modalities for the accommodation of differences in the context of growing challenges stemming from globalisation, regionalisation and European supranational integration.

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The Role of Law and Non-Territorial Autonomy Arrangements in the Implementation of Linguistic Rights: A Comparative Perspective

Vladimir Đurić and Vasilije Marković

1 Introduction

Language is a means of communication in the community, and, in that usage, it can represent one of the constitutive elements in defining a nation in the ethnic sense. Since non-territorial autonomy (NTA) could be understood as self-rule of a group through a non-state entity in matters considered vital for the maintenance and reproduction of their culturally distinctive features, it is quite reasonable that NTA arrangements (non-state bodies) should have certain roles in relation to language as one of such features of the communities they represent. Therefore, the analysis of the legal framework for the roles of NTA arrangements in the implementation of linguistic rights is a scientifically relevant subject of research. Furthermore, this article makes an important and original contribution to the field of NTA studies because, until now, there has been a lack of comparative research that evaluates different NTA arrangements from this perspective. In many countries where institutionalised NTA arrangements exist, the concomitant bodies have a recognised role together with public powers, inter alia, in the implementation of those

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rights (e.g. in Finland, Hungary, Slovenia and Serbia). The research here analysed focuses on the normative basis for NTA arrangements' public powers and role in the implementation of those rights. Consequently, the methodology consists of both a formal dogmatic approach and a comparative legal method. The starting point of these approaches is to examine how the law in various countries regulates the same issue, namely, the public powers of NTA arrangements with regard to linguistic rights. The next step in the comparison of the models of selected countries concerns the specific public powers accorded to different NTA arrangements in the field of linguistic rights. The parameters used for this comparison are (1) determining the name of the language of the communities represented by such arrangements, (2) ascertaining to what degree it is standardised and (3) observing its official usage. Having in mind the great importance and interconnections which the official use of language has on the implementation and the prevailing impact of linguistic rights, the special focus of this research bears on these factors, particularly with regard to determining the traditional names of settlements, which is a unique element of the public powers of NTA arrangements in Serbia.

2 NTA Arrangements and Their Public Powers

Scientific papers rightly underline that, within the somewhat muddled multidisciplinary concept of NTA and at least from the legal point of view, it is necessary to dismantle it into relevant parts (Osipov, 2013). More precisely, it is necessary to examine various elements of non-territorial forms of autonomy, suggesting that the main issues in this respect should be institutional design, the powers of NTA institutions, the determination of membership in the group for which the NTA has been created, and the mechanisms of participation of group members (Suksi, 2015, p. 84). In the context of considering the legal framework of the role of NTA arrangements in the implementation of linguistic rights, the focus of this analysis should be on the general overview of the powers granted to such institutional arrangements, with one qualifying remark. Namely, it is necessary to underline that the subject of this analysis is (national) minority self-governing institutions, and not functional NTA. This distinction is made having in mind the approach according to which one aspect of NTA belongs to the domains of both public administration and legal science, since it encompasses NTA understood as 'new public administration' or 'indirect administration' in the domain of cultural and educational policies, and consists of institutions that obtain public (material) resources and authoritative powers on a regular basis (contrary to ordinary NGOs) (Osipov, 2018, pp. 638–640). Such a distinction is necessary especially in the field of understanding the legal framework of the role of NTA arrangements in exercising linguistic rights, since the functional NTA model implies that regular administrative agencies, state or local, are organised to contain separate branches for the majority and the minorities, functioning in parallel to each other in dealing with the same issues, but in two different languages. More precisely,

the goal of the functional NTA model is to provide adequate linguistic services to a minority population in terms of certain public functions by creating special linguistically identified units at different administrative levels within the general line organisation of the national and local administration (Suksi, 2008, p. 199). Also, such a distinction essentially respects the definition according to which bringing the NTA into relation with certain institutions is crucial for defining its concept, because without (self-ruled) institutions such autonomy does not exist (Malloy, 2015, pp. 5, 7) since it implies *self-rule of a group through a sub-state entity in matters considered vital for the maintenance and reproduction of their culturally distinctive features* (Autonomy Arrangements in the World, n.d.).

The notion of public power is one of the most important notions in legal science and positive law. In the broadest sense, public power means the power vested in a person or body as an agent or instrument of the state in performing the legislative, judicial and executive functions of the state. However, in administrative law, the notion of public power has a slightly different meaning: in former Yugoslavia, for example, the majority of theorists inferred the powers of *non-state entities to act authoritatively* (Milkov, 2009, p. 95), and since the basis for such action can only be the law, public powers are actually considered special, *legally transferred powers* to non-state entities, which allows them to carry out their activities authoritatively (Lilić, 2013, p. 168).

According to some authors, public powers, within the activity of the administration, can be classified into: regulation of certain relations of wider interest through bye-laws (so-called regulatory powers), and resolution of specific situations by adopting individual legal acts—as well as other public powers such as the issuance of public documents (e.g. Kunić, 2001, p. 290).

This theory underlines that the decision on which entities will be entrusted with public powers is not unrestricted and, although it does not depend on the discretion of the legislator, it is conditioned by the nature of the activities of certain entities (Milkov, 2009, p. 96). In fact, the main reason why certain entities are entrusted with public powers is related to the need to ensure the proper functioning of the services in the public interest; in order to carry these out properly and smoothly those entities must have power, albeit limited, to act authoritatively (Milosavljević, 2013, p. 178). Thus, the transfer of public powers is linked with the importance that the activities of those entities have for the normal functioning of the community.

Non-state entities cannot use public powers outside of the transferred administrative activity, so entrusting public powers is actually a form of delegation of competencies from the state body to legal entities outside the state administrative body. The state, by a special legal norm, entrusts specific activity, which is otherwise a form of state administrative body activity, to a non-state legal entity (Borković, 2002, p. 24).

Basically, all of the above could apply to minority NTA. However, there are several important further observations to make. Namely, the characteristics of the public powers of minority NTA arrangements also depend on whether

that autonomy is guaranteed as a special, collective, constitutional right (and whether other minority rights are also guaranteed as collective), as well as on whether those arrangements are legally defined as representative bodies that belong to indirect public administration, or as (ordinary) state bodies. If minority NTA is guaranteed as a special constitutional right, it is clear that the state must transfer certain public powers to the arrangements through which autonomy is exercised and, in that context, it may be emphasised that those public powers are *inherent* to NTA. Of course, specific circumstances and needs for each minority in each country determine which powers will be transferred. On the other hand, if NTA arrangements have a representative character, it is clear that they will also have some scope for autonomous decision-making but, when their scope is within indirect public administration, they will have been entrusted public powers, while, if they are defined as state bodies, they will have a smaller scope for autonomous decision-making and for holding original prerogatives of state power. In general, the content of those powers can vary widely—from autonomous and final authoritative decision-making, especially in individual matters and the adoption of individual administrative acts, over the participation in public institutions/services management and decision-making, including the process of adoption of byelaws, to the exercise of consultative functions which, having in mind the discussion above on the definition of public powers, do not constitute such powers *stricto sensu*. Also, based on comparative law research, it is clear that there are limits to the regulatory powers that can be transferred to ethnic communities' bodies on a non-territorial basis (Đurić, 2018, p. 319). Moreover, except in a narrow scope and exclusively at the local level, e.g. as in Hungary, the NTA arrangements' powers in comparative law do not imply veto power (Vizi, 2015, p. 47).

3 NTA Arrangements and Linguistic Rights

Language is an essential component of personal identity. It is also a medium of communication in the community. In that sense, as stated, it is primarily an ethnic category. Moreover, it can represent one of the constitutive elements in defining a nation in the ethnic sense and be a strong symbol of ethnic (self-)identification. Therefore, although there is not always a clear congruence between ethnicity and language (May, 2008, p. 129), the latter is a means of communication but not a culturally neutral one and therefore it is not surprising that national minorities, often the speakers of a minority language(s) within a state, have traditionally articulated language claims as part of their agenda (Rubio-Marin, 2003, p. 52).

Since NTA, as previously stressed, implies self-rule of *a group* through a non-state entity in matters considered vital for the maintenance and reproduction of their distinctive cultural features, in order to understand the legal framework of the role of such entities (NTA arrangements) in implementation of linguistic rights, it is essential to point out that collective linguistic rights

may be defined as 'the right of a linguistic group to ensure the survival of its language and to transmit the language to future generations' (Chen, 1988, p. 49). In that sense, and starting from the fact that linguistic rights are related to different areas of social life in which and through which those goals can be achieved, it is clear that the role of NTA arrangements in the implementation of linguistic rights can be spread throughout the fields of culture, education, information, etc., but in different ways and to different extents.

First of all, while NTA bodies can be founders of institutions that are important for the implementation of linguistic rights in those areas and they can exercise management rights, comparable legislations differently determine the types of institutions that can be established by such bodies. On the one hand, these may be institutions that, as in the case of institutions established by other non-state legal and natural persons, are *private institutions* that may receive regular state aid or be financed by funds that NTA bodies regularly receive from the national budget. On the other hand, it is rare—and thus far provided only by Hungarian and Serbian legislation—that such arrangements can *take over* the existing *public institutions* that have already been established by the state or other levels of government, retaining their purposes and essential structure, but under the management and with the participatory managing public powers of NTA bodies. It is important to point out that in the case of such public institutions, although they are managed by NTA bodies, the exercise of linguistic rights through educational curricula or work and publication programmes is still regulated by state legislation, thus limiting their role and activity.

There is a qualitatively different role of NTA arrangements in the implementation of linguistic rights, which consequently leads to a different character of public powers, when participation is enabled in decisions on certain issues in the fields of education, culture and information. From the legal perspective, such participation in decision-making on the implementation of linguistic rights should be distinguished from simply consultation and/or proposing measures and activities related to those issues. To put it differently, this participation in decision-making on the implementation of linguistic rights relates to the obligation of public authorities to ask their opinion and/or to consider their proposals and respond to them. It is a matter of participation in decision-making being connected to the possibility of initiating appropriate administrative procedures—with the necessary expression of opinions during administrative decision-making procedures being taken into consideration—and giving prior or subsequent consent to the decisions of public authority, or final authoritative decision-making of NTA arrangements on matters related to the exercise of linguistic rights. The expression of such powers is exemplified by the solutions provided by the Finnish Act on the Sámi Parliament (1995), according to which the national authorities will negotiate with that body on all important issues that may directly and in specific ways affect the status of the Sámi as an indigenous people and which concern, among others, the development of the teaching of and in the Sámi language in schools in the Sámi

homeland.[1] The somewhat more precisely legally regulated powers of national councils of national minorities in Serbia enables them to propose school plans and programmes for minority languages and to give prior consent in the process of approving students' books in minority languages. A special and very important type of participation of NTA arrangements in decision-making is in cases when representatives of those bodies participate in the work of regulatory and other independent bodies which, independently of state bodies, autonomously decide on the issues related to the implementation of linguistic rights in various spheres of social life. This is especially the case in the field of information, when such bodies decide on the programme schemes of public media services, and consequently on the quantity and quality of programmes in minority languages. The Hungarian, Slovenian and Serbian legislations all enable the representatives of the NTA arrangements to participate in the work and decision-making of such bodies.

Besides the fields of education, culture and information where there is *public* use of language, a special dimension of the exercise of collective linguistic rights relates to the *official* use of languages and scripts of groups in whose favour NTA arrangements are established. In that sense, and bearing in mind that the official use of language and use in relations with administrative bodies is perhaps the most concrete indicator of their legal status, further attention in considering the legal framework of the role of NTA arrangements in the implementation of linguistic rights should be paid to the issues of powers of such arrangements with regard to the official use of language (Poggeschi, 2012, p. 166).

4 NTA Arrangements and Official Use of Languages and Scripts

Before considering the legal framework for the role of NTA arrangements in the implementation of linguistic rights in the context of their powers with regard to the official use of language, it is necessary to ask three interrelated methodological questions. Firstly, is there a (collective) right to the official use of language? Secondly, does the official status of a language imply territorial consequences and, consequently, could the exercise of the NTA arrangements' powers in that context also have territorial aspects? Finally, what does the official use of a language imply?

Regarding the first issue, it is necessary to underline that it is possible to draw a distinction between the right to *a* language and the right to *the* language. The right to *a* language would be the right to the official language

[1] Although based on the linguistic interpretation of the provisions of Article 9(1) of that Act, some authors conclude that the obligation of the state to negotiate is much more extensive than the duty of consulting, since in practice, 'negotiation' amounts to no more than obtaining a preliminary opinion: Article 9(2) also states that the failure of the Sámi Parliament to use the opportunity to be heard and discuss matters does not prevent public authorities in any way from acting on the related issues (Henriksen, 2010, p. 38).

based on historical and sociolinguistic conditions and it would materialise in the recognition of an official status. According to that view, the right to a language would be a collective right that would imply the power of a specific linguistic group to obtain an official legal status for its language. On the other hand, the right to *the* language would be a fundamental, universal and permanent (individual) human right which would legitimate people to use their language in every private function and in some public relations (for example, in one's own defence when facing an accusatory procedure) regardless of the fact that such a language does not have an official status (Ruíz Vieytez, 2004, p. 19).

Legal regulation of the official character of a language often includes territorial aspects of such (official) status. In this context, there are five models in comparative European constitutional law: (1) two or more languages are official in the whole of the state; (2) several languages have an official character, but in different parts of the state; (3) one language has an official status, but in some regions of the country such status is also recognised for other languages; (4) the official status has one language in the territory of the whole state, but minority languages can also be found in official use in certain fields or institutional contexts; and (5) states have only one official language, explicitly declared or established in practice, but legal solutions have been established to protect the linguistic rights of minority language speakers in which the degree of language protection may be greater or lesser in extent (Ruíz Vieytez, 2004, pp. 14–15). It is therefore clear that the exercise of public powers of the NTA arrangements, if such powers are legally established, may have a territorial dimension.

In the broadest sense, the recognition and establishment of the official status of a language can be described as a situation when 'it is recognised by public authorities as the normal means of communication within and between themselves and in their relations with private individuals, with full validity and legal effects'.[2] We should add to such a definition of the content of the official use of languages and scripts an emphasis on topographical indications in those languages, especially in the context of minority languages.

In the comparative law of states with NTA arrangements, the regulation of topographical issues varies significantly. The right to a language, understood as a (collective) right to an official language, is provided only by the Constitution of Serbia (2006), which in Article 79 stipulates, inter alia, that persons belonging to national minorities shall have a right, in areas where they make up a significant proportion of the population, to proceedings in their own languages before state bodies, organisations with delegated public powers, bodies of autonomous provinces and local self-government units. In some areas, this includes the right to have traditional local names, names of streets,

[2] For example, that is how the Spanish Constitutional Court described what is meant by official status of a language in one of its sound decisions on this matter (STC 82/1986 of 26 June 1986).

settlements and topographical names also written in their own languages, thus determining the content of the official use of minority languages. The Hungarian Constitution (2011, art. 29) more narrowly, stipulates that nationalities living in Hungary shall have, inter alia, the right to the individual and collective use of names in their own languages. The Slovenian Constitution (1991, art. 11) stipulates that in the municipalities where the Italian and Hungarian communities reside, their languages shall also be official, which indeed implies a high level of language protection, even though an official status of those languages is not normatively postulated as a (collective) right of those communities.[3] The Finnish Constitution (1999) stipulates in Section 17 that the Sámi, as an indigenous people (as well as the Roma and other groups), 'have the right to maintain and develop their own language' and that '[p]rovisions on the right of the Sámi people to use their language before the authorities are laid down by an Act'. It is important to point out that in Section 121 the Constitution stipulates that the Sámi people, in their native regions, are guaranteed 'linguistic and cultural self-government … as provided by an Act'.

In the given framework of the role of the NTA arrangements regarding the official use of the languages of the communities in whose favour they have been established, several issues require special attention. Those are the possible role and powers of such bodies in terms of determining the names of the language of communities that such arrangements represent, their standardisation and introduction into official use, as well as matters concerning various types of such use of languages.

Regulation of the official use of languages, especially if their official status is recognised or can be recognised and determined as minority languages, raises the question of defining the notion of language and the eventual recognition of the existence of separate languages within the legal order. In most European countries, there are no legal regulations that define the notion of language or determine legally relevant distinctive elements of a particular language's establishment. Accordingly, there are no special, legally regulated procedures for the official recognition of the existence of separate languages through which the competent authorities would verify the existence of such distinctive elements. Basically, such issues can hardly be fully regulated by legal norms. As an example of the difficulties encountered in making this possible, science uses the distinctions between language and dialect, and may note that this is not only a scientific fact but also a symbolic and political matter. In that sense, different languages are often standardised and consolidated by the existence of a specific political community, just as the names of particular languages lead to political debates up to the extent that, in the field of law and contrary to what

[3] Although Article 64 of the Slovenian Constitution provides special rights of the autochthonous Italian and Hungarian national communities in Slovenia, which imply existence of collective minority rights, the official status of their languages as a collective right is not stated among those provisions.

a linguist would accept, the language name is what defines it (Ruíz Vieytez, 2004, p. 3). It is therefore not surprising that in comparative law there are no explicit solutions that would entrust the NTA arrangements with powers related to defining the notion of language and possible recognition of the existence of separate languages.

The fact that NTA arrangements in comparative law are not transferred by public powers related to a definition of the language does not mean, however, that such bodies do not have a role in standardising and meeting other necessary preconditions for the official use of languages. Moreover, some theoretical approaches to the management of linguistic differences clearly indicate that NTA's lack of legislative competence can, in practice, be 'balanced' by a high degree of control over the bodies in charge of the standardisation of minority languages (Arraiza, 2015, p. 28).

Quite simply, public authorities, particularly in the context of official use, should accept community language standards according to the acts of respective NTA arrangements, since this is essentially within the scope of (cultural) autonomy. Indeed, in comparative law, sometimes even without an explicit normative basis, NTA arrangements can standardise the language of the communities in whose favour they are established, which, by its legal nature, may represent an autonomous authoritative decision-making and have far-reaching normative effects equal to regulation, with the effect of *erga omnes*, as is the case in the Republic of Serbia.[4] However, in practice in some countries, according to assessments of the NTA arrangements themselves, their decision-making powers turn out to be very limited in practice even in the field of language.[5]

On the other hand, some international instruments, such as the European Charter for Regional or Minority Languages (ECRML), instruct in Article 7 (4) the Contracting Parties to encourage those groups who use minority languages to establish, if necessary, appropriate bodies for the purpose of advising the authorities on all matters pertaining to those minority languages.[6]

[4] In practice in the Republic of Serbia, some national councils, such as the National Council of the Bunjevac National Minority, have standardised the language of that national minority. Such standardisation does not mean the obligation of the state to accept the independence of (in this example) the Bunjevac language as a separate language, especially in terms of assuming certain obligations for that language under the European Charter for Regional or Minority Languages, but nevertheless implies the use of that language in accordance with its own spelling and grammar rules (Đurić, 2019, p. 346).

[5] According to the assessment of the Sámi Parliament in Finland, although this body is formally the primary means of cultural autonomy in the field of language, planning in relation to the language itself is done by the government research institute rather than by the Parliament (Sámi Parliament, 2010, p. 3).

[6] The comments of the Charter state that it is advisable to establish a separate body for each of the minority languages, which should not be the same as the public authorities or bodies responsible for implementing state policy on minority languages and which, therefore, have a non-state character. They also state the tasks that such bodies could perform: (1) ensure availability of information about the rights and duties established by the Charter;

However, it is important to note that NTA arrangements covered by the Charter do not imply an obligation to establish *regulatory* (or any other significant public) powers, but that their role should be *advisory*.

A narrower, but significant concentric circle of public powers regarding the official use of languages exists where NTA arrangements, as authorised proposers, initiate the procedure of determining such use of language or give prior or subsequent consent to decisions of public authorities on certain aspects of such use, in particular with regard to topographical indications. In Hungary, for example, NTA arrangements have some of these powers: according to Article 81(1) of Act CLXXIX of 2011 on the Rights of Nationalities, local parliaments can only adopt a decision on the collective use of language with the consent of minority self-government arrangements.[7] In Slovenia, according to Article 17(4) of the Law on the Marking of Buildings and Naming of Settlements, Streets and Buildings, the consent of the relevant councils of self-governing ethnic communities must be obtained before any local decision-making on the names of settlements and streets in ethnically mixed areas. In Serbia, according to Article 22(3) of the Law on the National Councils of the National Minorities, the national councils of the national minorities can propose the establishment of minority languages and scripts as official in the local self-government unit. Moreover (still in Serbia), minority national councils have a special power regarding topographical indications. The theoretical review of legal solutions underlines that their concept is not to delegate administrative decision-making powers to national councils, but to involve those bodies in the decision-making process of central, provincial and local authorities (Korhecz, 2015, pp. 80–81), so that the powers of national councils do not disrupt the existing legal decisions and regulatory mechanisms, but complement them (Korhecz, 2014, p. 155). However, Article 22(1) of the Law on the National Councils of the National Minorities stipulates that the national council determines traditional names, including settlements, if the minority language is in official use in the area of the local self-government unit, and that such names become names in official use and are published in the *Official Gazette of the Republic of Serbia* or in the *Official Gazette of AP Vojvodina*. This provision authorises national councils to *constitutively, i.e. finally and authoritatively determine* the names of settlements that may be different in minority languages from the official names in the Serbian language, without any foundation in historical material and/or real needs.[8]

(2) represent the interests of minority language speakers in bodies responsible for guaranteeing freedom and pluralism of the media; (3) cooperate with the Charter's Committee of Experts that monitors its implementation; and (4) be involved in providing services provided by the Charter such as collecting, storing and publishing works in minority languages; etc. (Woehrling, 2005, pp. 129–130).

[7] It is emphasised in the comments that 'the right to consent' does not imply an absolute veto (Vizi, 2015, p. 47).

[8] Article 94 of the Law on Local Self-Government provides that the ministry responsible for local self-government will reject the draft statute or other act of a local self-government

This is a unique public power of the NTA arrangements in comparative law that goes far beyond international standards.[9]

On the other hand, such a very extensive authoritative power of the NTA arrangements is limited, since the transitional and final provisions of Serbia's Law on the National Councils of the National Minorities stipulate that if the national council does not establish traditional names within three months from the date of its entry into force, such traditional names shall be determined by the government, i.e. the competent body of the relevant autonomous province—if the national council has its seat in the territory of such—in cooperation with local self-government units, national minority organisations and experts in the language, history and geography of that minority. Thus, the power to determine traditional names is regulated in the Serbian legal system somewhat contradictorily—on the one hand it is set as very extensive, authoritative and final in decision-making, while on the other hand, under the threat of transferring its exercise within the jurisdiction of the government, it is limited to short time deadlines. It is important to stress that this is the only public power of the NTA arrangements in Serbia to which this time-limitation applies. Moreover, the legal solutions are vague regarding whether the NTA arrangements would permanently lose the stated public power if it missed the designated deadline, whether it could possibly change the government's decision and, finally but most importantly, whether the exercise of such power by the government is truly in line with the NTA arrangements' essential and legal power as originally intended.

unit if the content of the provisions of the draft statute or other acts on holidays and names of parts of settlements does not correspond to historical or real facts, or if they violate general and state interests or national and religious feelings, or offend public morals. However, that provision does not imply that the responsible ministry necessarily overrules the decision of a national minority council. Specifically, it is important to underline that this competence of the ministry is related only to acts of self-government units (and not to acts of national minority councils) and, in the context of this paper, only to names of *parts,* and not of whole settlements.

[9] Article 11(3) of the Framework Convention for the Protection of National Minorities stipulates that, in areas traditionally inhabited by substantial numbers of persons belonging to a national minority, the Parties shall endeavour, taking into account their specific conditions, to display also in the minority language traditional local names, street names and other topographical indications intended for the public when there is a sufficient demand for them. The provision contains restrictions and conditions that impose weaker requirements on the authorities compared to other provisions of the Convention—probably because the usage of the traditional names of some localities may risk resurrecting unwanted historical or separatist claims (De Varennes, 2006, p. 348)—while the Explanatory report states that this provision does not imply any official recognition of local names in the minority languages (Council of Europe, 1995, p. 10).

5 Concluding Remarks

If the purpose of NTA arrangements is to exercise self-government in matters considered vital for maintenance and reproduction of the distinctive cultural features of groups, then they must have a legally defined role in the exercise of linguistic rights, since language is certainly one of the most important cultural and, in a broader sense, identity features. Legally speaking, the role of NTA arrangements in any field of social life can be different and have a wide scope—from a consultative role to fully autonomous and final authoritative decision-making, which is the essence of public powers. However, given that in comparative law there are no examples of explicit recognition of (autonomous) regulatory powers transferred to NTA arrangements to be independently exercised with *erga omnes* effect, their public powers may consist of authoritative decision-making in individual matters and adoption of individual administrative acts, as well as participation in the management of public institutions/services and in decision-making that includes the process of adopting general acts, mostly bye-laws. It seems that, in comparative law, the public powers of the NTA arrangements in the context of the legal framework of their role are most pronounced in the field of implementation of linguistic rights, but in different ways and to different extents. Having in mind that linguistic rights are exercised in different fields in comparative law, there is a noticeable tendency, in the fields of education, culture and information, for public powers to have a participatory-managerial character and that, to some extent, they contribute to decision-making. On the other hand, the official use of language, precisely due to its official character, implies an increased degree of authority of the NTA arrangements' public powers in the exercise of linguistic rights. This may particularly refer to language standardisation, which NTA arrangements can perform, sometimes even without an explicit normative basis and which can 'balance' the lack of legislative competence of such bodies. Also, the increased degree of authority of the NTA arrangements' powers in the implementation of linguistic rights in the context of official use may be stressed if, as the example of Serbia shows, linguistic rights are partly normatively postulated as a constitutionally guaranteed (collective) right to an official language. However, it is noticeable that comparative legislation is reluctant to recognise any role for NTA arrangements in terms of determining (with regard to name and distinctiveness) the language of the communities represented by such arrangements, and that, even in case of the single authoritative and final determination of traditional names that such arrangements have in Serbia, their exercise is limited by certain legal conditions that in fact question the very legal nature of such powers.

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‘Living the Same Full Life’? A Critical Assessment of Non-Territorial Autonomy Practice in the Vojvodina and Sápmi Contexts

David J. Smith

1 Introduction

In recent years, NTA has developed into a broad, often vaguely defined concept denoting a variety of arrangements for the accommodation of diversity in settings across the world. Thus, alongside the plethora of different forms of NTA catering for national minorities in contemporary Central and Eastern Europe (CEE) and the Balkans, one can cite those that exist in the Brussels-Capital Region in Belgium and for Francophones living in provinces of Canada other than Quebec. Other well-known contemporary examples apply to indigenous peoples—the Maori in New Zealand and the Sámi populations that live in the Arctic Sápmi region today divided between Norway, Sweden and Finland. Nearly all these arrangements, however, share features derived from the original NTA model devised by the Austrian Social Democrats Karl Renner and Otto Bauer at the start of the twentieth century.

This original incarnation of NTA was closely bound up with questions of national self-determination that arose within the context of the Habsburg and other polyethnic empires of CEE during the second half of the nineteenth and early years of the twentieth century. This period saw the development of substate movements among these empires’ subject peoples exemplifying the three tenets of nationalist discourse outlined by Özkirimli (2017): they defined different groups of the population in national terms, as having a shared

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cultural, historical and political identity; they sought to create and preserve distinctive boundaries and sovereignty for these national groups; and, finally, in nearly all cases, they asserted a claim to rule over a defined territory deemed to be the national 'homeland' of the group in question.

As Social Democrats belonging to the dominant German-speaking political elite of the empire, Renner and Bauer feared that these nationalist movements would undermine the integrity not only of the workers' movement, but also of a Habsburg state that they wished to preserve within its existing boundaries and reform along democratic, federalist lines. To counter this threat, they sought to '[decouple] the politics of "people" and "place"' (Spitzer & Selle, 2020, p. 1) by framing the nationalities of the empire not as territorial entities, but as 'communities of persons' defined by identification with (and commitment to maintaining) a shared cultural identity. Renner and Bauer argued that each such community should be recognised as a distinct political subject with rights to cultural (but not territorial) self-determination within the framework of common belonging to a single federal state. Belonging to a particular national community was deemed to be a matter of personal choice for each individual citizen, regardless of where they lived within the state. National affiliation was to be determined through voluntary enrolment on a separate electoral register for each community, which would elect a cultural self-government responsible for native-language schooling and other cultural matters specific to the community in question (Renner, 2005).

While Renner and Bauer defined nations in ethno-cultural terms, as historically constituted 'communities of character' with a common origin and shared political interests, they clearly regarded language as the primary marker of ethnicity (Bauer, 2000, pp. 100–102). This assumption is problematic, in so far as linguistic and ethnic identity do not always coincide in practice (Smith & Hiden, 2012, pp. 59–63). The assumption is nevertheless still widely held by minority actors in CEE, many of whom continue to adhere to the multinational conception of statehood and society advanced by Renner and Bauer over a century ago. In one of the project interviews used for this paper, for instance, a Hungarian–Romanian respondent stated that autonomy should give citizens belonging to a minority the possibility to 'live the same full life' as those belonging to the majority. For him, a 'full life' implied 'the ability to use our symbols, and the ability to use my language in administration and governance, and about having the same chance of getting a well-paid job as the other'.[1] By this understanding, effective equality for minorities means not only freedom from discrimination on ethnic grounds, but also the right to preserve an already established societal culture and ensure its longer-term reproduction (Kymlicka, 2007).

How tenable, though, is Renner and Bauer's NTA vision? Given the diverse range of minority identities, situations and claims that exist in the world, the definition of and practical possibilities for 'living a full life' vary widely. Can

[1] Interview, 25 April 2016. ROM-1.1.1 in Smith (2020).

one therefore 'prescribe uniform solutions for diverse needs' (Purger, 2012, p. 12) in the way that Renner and Bauer did, and can attachment to place ever be fully taken out of the equation? Surveying the field of NTA scholarship back in 2010, Osipov (2010, p. 30) pointed to a preponderance of legal and political philosophical approaches, encouraging a normative 'focus on *what could and should be done* rather than on analyzing and describing *what, in fact, exists*'. A subsequent shift towards studying the actual practice of NTA in different contexts (Prina, 2020) has cast critical light on key assumptions of the original NTA model relating to deterritorialisation, political participation and group identity, themes which I examine here through an exploratory analysis of two cases: the Hungarian autonomy established in Vojvodina under Serbia's 2009 Law on National Minority Councils and the Sámi NTA arrangements operational in Norway, Sweden and Finland. The paper brings together findings from two research projects: the first, carried out in 2014–2018, investigated the contemporary politics of NTA in six countries of CEE (including Serbia), with a particular focus on semi-structured elite interviews exploring the perspectives and experiences of minority political actors[2]; the second, from 2021 to 2022, explored current practices relating to protection and promotion of the Scottish Gaelic and Sámi languages, through a series of webinars uniting academics and practitioners from the two settings.[3] While the two cases I discuss are very different in terms of socio-political context, they nevertheless highlight some more general issues and challenges related to the practical application of NTA. In what follows, I first briefly overview recent scholarly debates on NTA relating to deterritorialisation, participation and identity, before illustrating these further with reference to the two case studies.

From the preceding overview of Renner and Bauer's thought, it becomes clear that NTA was originally conceived as an instrument of statecraft driven by a securitised understanding of ethnic diversity. In other words, it was posited as a catch-all alternative to territorially based claims for national self-determination that were deemed to threaten the integrity of existing states. A similar approach was apparent in the initial revived discussions of NTA in CEE during the 1990s, following the collapse of communism and the demise of Yugoslavia and the USSR. At this time, NTA was often understood as a kind of '"magic bullet" in the armoury of those seeking to cope with problems of ethnic diversity and conflict' (Coakley, 2016, p. 166). Similarly, Roshwald

[2] 'National Minority Rights and Democratic Political Community: Practices of Non-territorial Cultural Autonomy in Contemporary Central and Eastern Europe.' Economic and Social Research Council, Grant Number ES/L007126/1. The project interviews cited in this paper are all drawn from UK Data Service Data Collection Number 852375 (Smith, 2020). Interviews were conducted on the basis of respondents giving active consent to be named or—where consent was withheld—remaining anonymous.

[3] 'Gaelic and Sámi: Promoting Mutual Learning in the Protection of Indigenous Languages', Grant Number ACF21-09, Scottish Government Arctic Connections Programme 2021–2022. https://www.gla.ac.uk/schools/socialpolitical/research/cees/currentprojects/gaelicandsami/#d.en.833631.

(2007, p. 373) observes that NTA was 'presented as situated at the golden midpoint between Balkanization and banalization … [offering] … minorities the option of substantive cultural self-determination without linking it to territorial autonomy, with all the centrifugal tendencies the latter may awaken'.

Other authors, however, have questioned whether it is possible or desirable to 'deterritorialise' minority identities completely, arguing for a need to shift the paradigm away from state security towards a focus on justice and optimal arrangements for minority empowerment in particular contexts (Bauböck, 2001; Kymlicka, 2007). Even if minority claims do not follow the Westphalian logic of seceding to create a sovereign state 'of one's own', it is doubtful whether the politics of people and place can be decoupled by limiting self-determination to functional control over language and culture as opposed to land and resources. This is especially so in the case of linguistic minorities that live compactly, for here, 'living a full life' would imply the possibility to use the language in communications with state authorities and other routine everyday interactions. Moreover, one might ask whether ethnic demography should be the determinant factor when deciding on optimal arrangements for minorities. For, even where a given community has become numerically small and dispersed in terms of settlement, the distinct 'way of life' that it aspires to protect is invariably rooted in connections to a specific place (MacKinnon, 2021).

While Roshwald (2007, p. 373) speaks of NTA as offering the possibility for 'substantive cultural self-determination', reference to this concept is today lacking from key international documents on minority protection such as the Framework Convention on National Minorities and the various recommendations and guidelines issued by the Office of the OSCE High Commissioner on National Minorities. In so far as autonomy is mentioned in these documents, it is typically referred to as 'self-governance' and is bracketed under the heading of ensuring effective minority *participation* in public life. The key yardstick for assessing the functionality of NTA has thus become the extent to which different arrangements give minorities a meaningful voice in decision-making on matters relevant to preservation and longer-term reproduction of their identity (Malloy et al., 2015). Linked to this are issues of legal entrenchment and status, competences and—not least—access to funding and other resources (Salat, 2015). Also crucial is the extent to which an NTA arrangement accommodates the range of different voices typically found *within* minorities' communities (Marsal, 2020), which brings into focus the relationship between autonomy and collective identity. Central to any form of NTA (including the two considered here) is the question of what criteria should serve to define identity and belonging within the community that constitutes the legal subject of autonomy—and, by extension, who decides on the criteria. While Renner and Bauer's NTA model made ethnic identity a matter of individual choice and group membership a matter of voluntary adhesion to a register, critics frequently contend that this approach rests on an essentialised 'groupist' logic (Nootens, 2005, pp. 56–57; Osipov, 2010). The

necessity to opt for one ethnic identity, they argue, is ill-suited to the complex realities of a social world in which individuals frequently have mixed ethnic backgrounds and multiple cultural affiliations. Whatever view one takes on this issue, ethnic identities are never fixed or monolithic, and the political communities constituted through NTA are therefore always internally heterogeneous. If this intragroup pluralism is not properly accommodated and NTA institutions become monopolised by one section of the community to the exclusion of others, the representativeness and legitimacy of the institutions—and the willingness of individuals to participate in them through elections and other channels—will suffer accordingly (Salat, 2015; Smith & Hiden, 2012). In the remainder of this paper, I analyse how these issues surrounding deterritorialisation, participation and identity manifest themselves in the cases of Vojvodina Hungarian and Sámi NTA.

2 Hungarian NTA in Vojvodina

Numbering just over 250,000 according to 2011 census data, Serbia's Hungarian minority is concentrated in the Vojvodina region that was detached from Hungary in 1920. Highly politically mobilised and well organised, the minority has received strong support from neighbouring Hungary. These factors, coupled with the legacies of institutionalised ethnicity inherited from the Yugoslav system, would appear to offer good preconditions for preserving Hungarian minority identity. The Vojvodina region, however, has always had a distinct, strongly multicultural identity within Serbia, with traditionally high levels of inter-ethnic marriage increasing prospects for longer-term acculturation and assimilation (Smits, 2010). Hungarian minority parties were instrumental in pushing through Serbia's 2009 law on elected national minority councils, which follows the precepts of the NTA model. At first sight, therefore, this appears to be an instance where a minority community that is comparatively large and relatively compact in terms of settlement has embraced non-territorial over territorial autonomy.

This impression is, however, misleading, since the proposals initially tabled by Hungarian minority representatives at the start of the 1990s in fact envisaged a three-tier system of autonomy: territorial for Hungarian-majority districts in northern Vojvodina alongside non-territorial for Hungarians living in more dispersed fashion elsewhere, with this arrangement nested within regional autonomy for the multiethnic province of Vojvodina as a whole.[4] In the event, the proposal for a Hungarian autonomous area was never adopted, meaning that only two of the initial demands have been realised in practice. Yet, NTA alongside regional autonomy has represented an acceptable political compromise in so far as it has gone hand in hand with a framework of territorial decentralisation in Serbia, which provides for the official use

[4] 'Interview with member of first HNMC (2010–2014), 19 May 2016. SERB-2.1.3 in Smith (2020).

of minority languages alongside Serbian in municipalities where the relevant minority constitutes more than 15% of the local population. Thus, we see a combination of territorial and non-territorial arrangements which—at least on paper—has been well suited to the practical requirements of the Hungarian minority, though perhaps less so to that of smaller, less politically mobilised groups.[5]

Among contemporary NTA arrangements established in CEE and the Western Balkans since the early 1990s, Serbia's system of national minority councils is often hailed as one of the most substantive in terms of actual practice (Korhecz, 2014; Malloy et al. 2015; Petsinis, 2012). The original 2009 law indeed introduced far-reaching provisions, under which the Hungarian Minority National Council (HNMC, first elected in 2010) not only had to be consulted by state and local authorities on all matters relevant to the minority but was also entitled to claim cofounding rights in relation to minority schools and other institutions. If the establishment of the HNMC initially brought a 'new quality of life' to the Hungarian minority (Korhecz, 2014, p. 162), the 2009 law was soon contested by more nationalistically minded elements among the Serbian majority, resulting in a 2014 Constitutional Court ruling that significantly diluted the competencies of national minority councils. This had significant implications, with one member of the second HNMC (2014–2018) noting that its opinion was no longer decisive if, for instance, a local authority decided to change an historic street name within an area where Hungarians live. The HNMC, he suggested, 'lost its essence' when it ceased to have any meaningful role in decision-making and was downgraded to little more than an advocacy body, since minorities cannot rely on goodwill from the side of municipal authorities. In the sphere of language use, the same respondent noted that even where the law provides for use of Hungarian alongside Serbian in local administration, public organisations often do not employ any Hungarian speakers. This is one factor that has fuelled calls for the introduction of policies of proportional representation in public sector employment.[6]

Proportionality within this sector obviously requires that the people employed are fully conversant in Serbian as well as their mother tongue, a consideration that brings into focus the quality of Serbian language tuition within schools that teach primarily in Hungarian. Here, a member of the second HNMC highlighted the fact that Serbian is taught as a native rather than a second language—i.e. there are no separate materials or pedagogical approach specifically tailored to the needs of school learners from minority-language communities. As outlined further below, this language

[5] Interview with member of first HNMC (2010–2014), 19 May 2016. SERB-2.1.3 in Smith (2020).

[6] Interview with member of second HNMC, 16 May 2016. SERB-2.3.1 in Smith (2020). On the plus side, this respondent noted that the HNMC also provides legal aid in cases where language rights have been violated and that this has helped people to gain a greater awareness of the rights available to them.

barrier has had significant implications, with the HNMC often struggling to persuade ethnically mixed Serbian–Hungarian families to enrol their children in Hungarian language schools. The HNMC has lobbied (thus far unsuccessfully) for reform, drawing attention to the inadequacies of a system that leaves students in Hungarian language schools better practically equipped to speak English than they are the majority state language.[7] In practical terms, HNMC's main contribution has been to fund additional classes in Serbian (often immediately before graduation) for students in Hungarian language secondary schools, in an attempt to equip them better for study in Serbian universities and for the demands of the national job market. For many of our respondents from the HNMC, the Serbian state's rhetoric of 'integrative multiculturalism' was therefore not matched in practice. A further key issue here relates to the limited funding made available to the HNMC by the authorities, where it was noted that the annual sums received from the state budget were barely sufficient to cover administrative running costs.[8] In this respect, the Hungarian minority has relied heavily on financial support from its external kin state, with one respondent noting that around seven-eighths of the funding allocated to Hungarian language schools is provided by Hungary itself.[9]

This external kin state support has enabled the HNMC to perform valuable work towards the promotion of minority education and culture. Nevertheless, these efforts have been undermined by the difficult socio-economic situation within Serbia more generally. One theme to which respondents alluded constantly was the long-term existential threat to the minority posed by emigration and demographic decline, with one HNMC member noting that 'lots of people go abroad and try to find their happiness there, either alone or with their whole family. This obviously influences the number of children, students and schools. ... From year to year, the number of students decreases by hundreds in our secondary schools and universities. And we know what it means; if the number of students decreases, then the teacher's work decreases as well, which slowly leads to the teacher being unemployed, which again leads to more people going abroad. We are already in this process, unfortunately'.[10]

[7] Interview with member of second HNMC, 16 May 2016. SERB-2.3.1 in Smith (2020).

[8] This can be attributed partly to a difficult socio-economic situation, but one respondent framed it as a matter of political choice, alleging that the annual sum allocated to the HNMC was less than the daily sum that the Serbian state allocates to support Serbs in Kosovo. Interview with member of second HNMC, 16 May 2016. SERB-2.1.4 in Smith (2020).

[9] Interview with member of second HNMC, 16 May 2016. SERB-2.1.1 in Smith (2020).

[10] Interview with member of second HNMC, 17 May 2016. SERB-2.1.2 in Smith (2020). The same point was made by interviewee SERB-2.1.4. On the impact of emigration on the human resources of the region, see Gabrić-Molnar and Slavić (2014).

Another similarly observed that 'the biggest challenge is to keep the youngsters here somehow. … They think whatever is here is bad and everything that is beyond the border is good and they just want to leave and continue their lives there'.[11]

The existence of the HNMC has allowed Hungarian elites to address this problem, by channelling funds in a way that encourages young people to commit their futures to Serbia rather than leaving for study or work in neighbouring Hungary or elsewhere. In addition to Serbian language classes for secondary school students, the HNMC has established a variety of scholarships and other forms of support (e.g. the *Vackor* programme) for students to study in Hungarian schools, on the condition that they undertake higher education in Serbia itself. Those who complete primary and secondary school in Hungarian and university in Serbian, it is reasoned, will possess an excellent knowledge of both languages and will therefore be more likely to remain in Serbia once they have completed their education. By contrast, those Hungarian minority students who travel the short distance across the border to study at Szeged University in Hungary 'still cannot say three sentences in Serbian' following graduation, according to one respondent, and are accordingly disadvantaged within Serbia's labour market.[12]

For all this, the functions of the HNMC remain limited to issues of language, culture and education. Members of the local Hungarian minority, our respondents suggested, did not always understand this, and turned to the Council with 'problems of migration and unemployment' it is not authorised (or indeed practically able) to address.[13] In the words of one respondent, 'some think that the National Council can influence everything—economy, agriculture, industry. But we are only authorised to make changes in education, culture, official usage of language and public information'.[14] In this respect, the Hungarian minority's close relationship to the kin state can be seen as a double-edged sword: on the one hand, Hungary has made considerable economic investment in the local area in an attempt to curb emigration, including establishing the Európa Kollégium dormitory for Hungarians studying at the University of Novi Sad. On the other hand, the mass passportisation of local Hungarians which Viktor Orbán's government initiated in 2010 has given local people an additional means and incentive to emigrate. As noted by the same respondent, 'sadly many don't choose to use [local scholarships] but to go to Hungary—with Hungarian citizenship—where they receive free

[11] Interview with member of second HNMC, 17 May 2016. SERB-2.2.1 in Smith (2020).

[12] Interview with member of second HNMC, 16 May 2016. SERB-2.1.1 in Smith (2020).

[13] Interview with member of second HNMC, 16 May 2016. SERB-2.1.1 in Smith (2020).

[14] Interview with member of second HNMC, 17 May 2016. SERB-2.2.1 in Smith (2020).

education as well. Hungary has a much better system of dormitories than here. It is very competitive and difficult to keep the students here'.[15] A member of the first HNMC, meanwhile, called the extension of Hungarian citizenship:

> catastrophic, because we are becoming empty. … We really appreciate that we are welcomed as Hungarian citizens since our ancestors appeared to have been locked out of their own country; … but, in practice, since 2008, there has been a decreasing standard of living. People put up with this for a while, but they can't any longer. Thousands of young Hungarians are leaving as there is a huge existential uncertainty; this is the easier way, as working in the EU becomes an option for them. And I don't think it will change. … I don't know how we could stop it or reverse it, … as who has the right to put the Hungarians over the border into ghettos? … We simply have to face the fact that the law is *de facto* and objective, carrying the death sentence of the Hungarian community here.[16]

A member of the second HNMC concurred with this view, noting that when he had finished secondary school in 2003, 24 out of 28 students had gone on to university and all had continued their studies in Serbia: 'It never even occurred to us to study abroad. Now out of 16 students, 14 are going to Hungary to continue their studies'.[17] While this exodus was partly attributed to a lack of adequate Serbian language knowledge among students, respondents also alluded to a sense that Hungarian university degrees were of higher value, since they can be used anywhere in the European Union. Local students thus do not travel to Hungary to study because they want to stay there but use the kin state purely as a launch pad for a career in another EU country. It was claimed that many later regretted this decision, as they fail to find employment abroad that is commensurate with their qualifications. By this point, however, it is often too late to find a good job back in Serbia.[18]

Critics of Hungary's post-2010 kin state policies whom we interviewed further contended that passportisation of Hungarian minorities abroad (which includes the entitlement to vote in parliamentary elections in Hungary) has been done with an eye to the domestic political interests of Hungary's ruling Fidesz Party rather than to those of Hungarian minorities themselves. According to several respondents, financial support for the HNMC had been used to build a clientelist relationship between Fidesz and the largest Hungarian minority party in Serbia, VMSZ (Vajdasági Magyar Szövetség/The

[15] Interview with member of second HNMC, 16 May 2016. SERB-2.1.1 in Smith (2020).

[16] Interview with member of first HNMC, 19 May 2016. SERB-2.1.3 in Smith (2020).

[17] Interview with member of second HNMC, 16 May 2016. SERB-2.3.1 in Smith (2020). Respondent SERB-2.2.1 made a similar point, claiming that [in 2016] if 'there are twenty-odd students in [a] class, … 19–20 of them are going to Hungary; only two or three are staying'.

[18] Interview with Chair of HNC Culture Committee, 17 May 2016. SERB-2.2.1 in Smith (2020).

Alliance of Vojvodina Hungarians). One noted that whereas under Serbian law political parties cannot be financed from abroad, this restriction does not apply to HNMC as a non-governmental organisation. He alleged that VMSZ and its sympathisers (having held the overwhelming majority of seats in the HNMC since 2014) had used cultural and educational funding to promote the particular interests of the party, without regard to wider views and concerns within the community itself.[19] Others alluded to a diminution of internal democracy within the HNMC from 2014, with the executive committee assuming an increasing share of decision-making power at the expense of different functional committees.[20] The incumbent VMSZ President of HNC stood accused of 'ruling from above and directing from above', shutting down debate and ostracising opposition voices within the organisation.[21]

Criticising this turn in governance after 2014, a member of the 2010–2014 HNMC asserted that 'in minority society, one must be open for all interests and layers of society and all needs to communicate and aim for consensus within the given possibilities'.[22] Closing down space for internal pluralism within the HNMC runs the obvious risk of undermining its legitimacy and standing as a representative organ among the community whose interests it is supposed to protect and promote. In this respect, it was noted that levels of participation in elections to the HNC were already low, with 130,000–140,000 citizens having signed up on the Hungarian electoral register but only 50,000 having voted.[23] In instrumentalising Hungarian minorities for its own domestic political purposes, the Fidesz regime in Hungary has frequently cast them as members of a single, undifferentiated ethnic Hungarian nation that extends across borders. This essentialised framing disregards the local particularities of Hungarian minority identity, which one respondent encapsulated in terms of a desire to 'keep my Hungarian ethnicity here, where I live. I am a Hungarian who lives in Vojvodina, which is a special kind of animal as we live in a very multicultural community. I am very proud of and am holding on to being Hungarian in this multicultural community'.[24] By treating the Hungarian minority as a diasporic extension of the Hungarian state and its policy agenda, Hungary completely disregards questions pertaining to the minority's capacity for agency and actorness on its own behalf.

[19] Interview with first President of HNC (2010–2014), 19 May 2016. SERB-2.1.3 in Smith (2020).

[20] Interview with Chair of HNC Language Use Committee, May 2016. SERB-2.3.1 in Smith (2020).

[21] Interview with first President of HNC (2010–2014), 19 May 2016. SERB-2.1.3 in Smith (2020).

[22] Interview with first President of HNC (2010–2014), 19 May 2016. SERB-2.1.3 in Smith (2020).

[23] Interview with VMDK Member of HNC, 16 May 2016. SERB-2.1.4 in Smith (2020).

[24] Interview with Chair of HNC Culture Committee, 17 May 2016. SERB-2.2.1 in Smith (2020).

Some interview respondents alluded to this problematic situation, arguing in effect that kin state engagement should more properly function as a complement to (rather than substitute for) a better functioning framework of multiculturalism within Serbia itself. Here it was noted that it was wrong for the Hungarian state to have the primary role in supporting the HNC and its activities, when this responsibility should fall primarily to Serbia itself.[25] According to a representative of the opposition Democratic Party of Vojvodina Hungarians, for instance, it was not appropriate that the terms of reference concerning language rights should be assigned to national minority councils, when this was in fact the duty of the state under the relevant international documents which Serbia has signed.[26] In the meantime, the shortcomings of the current system lend further weight to arguments by Serbian critics of the NTA system such as Goran Bašić, who argues for fully 'integrative bilingual education' for minorities (Bašić, 2018). This suggestion was, however, rejected by our respondents, who saw it as a stepping stone to longer-term assimilation.[27] Referring to the perceived current deficiencies of the NTA model more broadly, an opposition representative within the second HNMC restated the case for a form of Hungarian territorial autonomy in northern Vojvodina, arguing that functional competencies related to 'culture, education, official use of language and the public information are not enough. The whole thing must have an economic and thus a territorial element to it as well, which makes people stay, do business, farm and make decisions based on a faith in their own micro-communities'.[28]

3 Sámi NTA in the Arctic Region

In the case of Vojvodina, we see NTA applied to an ethnic Hungarian population in a territory detached from the Hungarian national state and attached to a neighbouring one. Sámi NTA, by contrast, applies to an indigenous people whose minority status derives from settler colonialism within its historic area of settlement, known as Sápmi and extending from the northern parts of present-day Norway to the Kola Peninsula in Russia. As part of processes of modern nation-state formation within the region during the nineteenth and twentieth centuries, Sámi populations were historically subject to racist discourses and practices of forcible assimilation, later mitigated (but not reversed) by the development of comprehensive welfare states that drew Sámi more closely into the 'mainstream' society of Norway, Sweden and Finland (Spitzer & Selle,

[25] Interview with Chair of HNC Culture Committee, 17 May 2016. SERB-2.2.1 in Smith (2020).

[26] Interview with member of Democratic Party of Vojvodina Hungarians (VMDP), 18 May 2016. SERB-1.3.1 in Smith (2020).

[27] Interview with member of second HNMC, 16 May 2016. SERB-2.1.1 in Smith (2020).

[28] Interview with member of VMDK, 18 May 2016. SERB-1.2.1 in Smith (2020).

2020, p. 12). Those identifying as Sámi across the three Nordic nation states are today small in number and territorially dispersed. Most now live outside Sápmi, with an increasing concentration in the larger cities of the south. The different varieties of the Sámi language are all severely endangered. From the 1970s onwards, however, a discourse of Sámi self-determination gained purchase, as minority activists began to '[demand] not mere integration but accommodation as a distinct, rights-bearing Indigenous nation' (Spitzer & Selle, 2020, p. 13). In all three Nordic states containing Sámi populations, these claims for accommodation have since been met through structures of NTA.

In the academic literature, Sámi NTA is frequently held up as an example of good practice, being categorised by Malloy et al., (2015) as a system of 'voice through self-governing institutions' and—in the same edited volume—described as 'one of the most prominent models for addressing indigenous rights questions' (Salat, 2015; Stępień et al., 2015, p. 117). The title of 'Parliament' often ascribed to elected Sámi NTAs is, however, something of a misnomer, since these bodies have no legislative authority and function primarily as consultative bodies rather than organs of self-government as such (Stępień et al., 2015, pp. 121–124). This is especially so in Sweden, where the *Sámediggi* simultaneously functions as a national administrative authority—so, basically as an arm of the Swedish state government (Lawrence & Mörkenstam, 2016). It is only in Norway and Sweden, moreover, that rights to personal autonomy for Sámi extend to the whole of the state territory—in Finland, the right to vote in *Sámediggi* elections is limited to four municipalities in the northern Sámi Domicile Area.

The claims in the literature and the external image held by these arrangements, moreover, prompt deeper reflection on the nature of the Sámi 'voice' articulated through the parliament, as well as on the essence of indigenous peoples' rights questions more broadly. In the case of indigenous peoples as traditionally defined, the territorial aspect can hardly be 'decoupled' from claims to self-determination, given that such claims have typically focused on claiming control not just over the 'lives' of the community but also over the lands and resources through which it has historically secured its means of subsistence (Stępień et al., 2015, p. 120). The Sámi offer a clear case in point, given their identification with a pre-existing territory (Sápmi) and the fact that the political mobilisation of the post-war decades was largely inspired and underpinned by conflicts over land use. Use of land, moreover, remains central to Sámi politics, as witnessed by the ongoing fallout in Sweden from the 2020 Supreme Court ruling giving the Girjas Reindeer Herding Community the right to control hunting and fishing on what it considers to be its ancestral lands (Orange, 2020; Ruin, 2021). A further contemporary example in Sweden can be seen in opposition to the planned establishment of an iron ore mine on Sámi ancestral lands in Gállok, which was given approval by the Swedish government in December 2021 (Boffey, 2022). As Spitzer and Selle (2020) also observe in a recent article, Sámi self-government in Norway has

recently begun to expand beyond NTA to encompass more and more elements of territorial authority, a move which reflects the perceived inadequacies of the NTA model.

The aforementioned developments would seem to confirm the view expressed by authors such as Kymlicka (2007, p. 390), who claims that, from the point of view of state authorities, NTA has often been conceived not so much as an optimal model of accommodation for indigenous peoples, but rather as a convenient way of 'sidestepping' far more politically contentious disputes over ownership and use of land. In this regard—precisely as Renner and Bauer intended back at the start of the twentieth century—NTA has the potential to limit the discussion to issues such as language protection and promotion, without deeper reflection on how identity and way of life might be linked to place. The competencies and funding devolved to Sámi NTAs have indeed enabled them to undertake and support important educational and cultural initiatives geared to the younger generation of Sámi, while helping older speakers to reclaim an ethnolinguistic identity previously lost to them through forcible assimilation. As in the case of Serbia, this support through NTA has been supplemented by measures of territorial decentralisation that allow for Sámi language provision within designated administrative areas or municipalities. In only two districts of northern Norway, however, do Sámi speakers constitute a majority of the local population. Limitations of this system remain apparent, with Sámi language activists who participated in project webinars alluding to insufficient state funding. Although Sámi language support has helped to instil a new pride in identity and dispel previous 'feelings of hopelessness', the small number of speakers means that these measures might amount to little more than 'palliative care' for languages that remain severely endangered.[29] Thus, echoing recent debates in Scotland, it would seem more appropriate to talk about symbolic promotion of Sámi languages rather than measures to ensure their protection as a means of everyday communication (Ó Giollagáin & Caimbeul, 2021).

As already observed, the Sápmi case mirrors that of Vojvodina, given that in neither context has it proved possible to 'decouple the politics of people and of place' entirely. In the case of the Sámi, however, Spitzer and Selle (2020, p. 22) come back to ethnic demography as a central factor limiting the scope for further territorialisation of self-governance, given the increasingly dispersed and urbanised character of the referent population group. Among other things, the fact of demographic dispersal raises important questions around how Sámi identity should be defined and who speaks for 'authentic' Sámi interests. Until now, the work of Sámi NTAs and influential NGOs has focused primarily on preserving core Sámi livelihoods (most notably reindeer herding) which are intrinsically linked to place; such a focus, however,

[29] See recording of second project webinar, Gaelic and Sámi: Digital Aspects of Indigenous Language Learning, 3 March 2022. https://play.umu.se/media/t/0_9w9znf0x.

has only limited relevance to the interests and concerns of those Sámi (the majority) who live outside Sápmi, often in big cities, and who may have reconnected with their Sámi heritage only later in life. This inevitably feeds growing contention with Sámi NTA bodies, with those speaking for traditional livelihoods finding themselves challenged politically, not only by the majority within the respective nation states where they live (over issues such as hunting rights and access to mineral resources) but also by other elements within their own community which perceive them as representatives of a traditional 'elite' that disregards other voices within the wider community. Here one clearly sees the dilemma (intrinsic to all forms of NTA) of how to delimit the ethnopolitical group that forms the basis for autonomy and ensure that all elements of it are adequately represented within structures of self-governance (Stępień et al., 2015, pp. 135–136).

4 Conclusions

This exploratory paper has analysed two contemporary cases which, while they in many ways differ completely in terms of context, both cast doubt on understanding of NTA as a modality that can 'decouple the politics of people from the politics of place'. The paper argued that NTA was originally conceived from the top-down as an instrument of statecraft, reflecting a securitised view of diversity that casts national minorities and their self-determination claims as an 'anomaly' (Nancheva, 2016) and a threat to existing sovereign states. It can thus be understood as an attempt to deterritorialise (and depoliticise) such claims by confining them to functional autonomy in matters of language and culture. This understanding has persisted into the contemporary post-Cold-War era, when notions of collective rights for minorities have slipped down the international agenda and 'autonomy' has come to be discussed not under the rubric of national self-determination but rather under that of effective participation by persons belonging to minorities (Csergő & Regelmann, 2017).

In discussing the practice of NTA in the two cases, the paper sought to show how they illustrate the inherent difficulties of deterritorialisation, while also highlighting some problematic issues and essentialist assumptions relating to participation and identity. In the case of Hungarians in Serbia, the arrangements put in place since 2009 have indeed forestalled (until now) initial claims for an autonomous Hungarian region. However, Hungarian NTA has arguably proved workable only because it complements a system of territorial decentralisation (language thresholds in areas where minorities make up a sizeable share of the local population) which caters for the needs of those Hungarian speakers who live compactly. This whole arrangement, moreover, is nested in provincial autonomy given to Vojvodina, a region with a historically multicultural identity. It would therefore seem more appropriate to talk of a combination of territorial and non-territorial elements.

Does this, though, equate to genuine autonomy or self-governance that meets the needs of the minority concerned? The respondents from Vojvodina who were interviewed for this paper were preoccupied above all with the growing emigration of Hungarians from the region, largely for economic reasons. This is a problem that functional autonomy in the spheres of language and culture alone cannot address, bringing into focus the importance of control over local socio-economic development for the protection and longer-term development of a minority societal culture. In this regard, the extensive support provided to Vojvodina Hungarians by their neighbouring kin state (a factor usually seen as highly beneficial for identity protection) has in fact been a double-edged sword, since the blanket extension of extraterritorial Hungarian citizenship by Viktor Orbán's regime has only served to give further impetus to out-migration. This is symptomatic of a kin state policy which has increasingly been conducted with an eye to the domestic political interests of the incumbent Hungarian government rather than to the context-specific identities, needs and claims of Hungarian communities abroad. The increasing financial dependency of these communities on Budapest (see Udrea in this volume) has done little to boost their agency and scope for effective participation within their home states, while also shutting down internal pluralism in a way that denudes the legitimacy of the HNMC. One obvious conclusion that emerges from this is that state and regional authorities in Serbia would do well to give more practical substance to their declared policy of fostering integrative multiculturalism, through a more holistic approach that would include greater attention to the socio-economic development of the regions where Hungarians live compactly. Without this, claims for greater minority agency will most likely be expressed through continued calls for a territorially based form of regional autonomy, giving greater control over economic resources.

It is harder still to take territory out of the equation when it comes to Sámi autonomy, given that this relates to an indigenous people. Even though the Sámi are today small in number and live dispersed both within and beyond their ancestral Sápmi homeland, their claims have continued to be bound up with rights to land. NTA has brought at least some tangible benefits regarding the promotion of Sámi language and culture, though in this case too it is hard to talk of genuine self-governance. Until now, moreover, issues of language and culture (the core focus of any NTA arrangement) have also been inextricably linked to land use as the basis for a traditional way of life centred on reindeer herding. This understanding of Sámi identity has become increasingly contested within the context of territorial dispersion. Nevertheless, if existing communities of first-language speakers disappear within historic areas of Sámi settlement, it is hard to see any continued role for Sámi as a societal language, as opposed to one that receives only symbolic recognition. In this respect, our recent project uncovered interesting overlaps with the debate over the future of Gaelic in Scotland, where, in the context of a shrinking 'vernacular' community of first-language speakers, critics contend that current policies amount to language promotion but not to the actual *protection* of Gaelic as

a societal language rooted in a traditional way of life. They thus call for these (territorially rooted) vernacular communities to be given a greater say in their own cultural affairs via a set of new arrangements—an 'ethno-linguistic assembly' for the territories where Gaelic is still widely spoken (Ó Giollagáin et al., 2020). If adopted, this would amount to a further example of NTA, though one that would be dedicated to preserving the link between people and place rather than decoupling it.

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The Dilemma of Responsibility: The Role of Kin-States and Nation-States in Implementing Non-Territorial Autonomy Models to Realise Minorities' Linguistic, Cultural and Educational Rights

Martin Klatt

1 Introduction: Minority Education, Autonomy and Liberal Multiculturalism

Education is a central tool to help individuals develop identities and opportunities to contribute to society, especially for minorities to maintain and develop their language and culture (Wisthaler, 2011, p. 25). Education is also a central element in national mobilisation. Nationalism studies document the effect of state pressure combined with the literary development of the vernacular on the development of a conscious national community (Anderson & American Council of Learned Societies, 2006, ch. 3; Hastings, 1997, p. 11). These studies also examine the effect of modernisation and industrialisation on language homogenisation along with national identity construction (Gellner, 1983). They look at the central role of universal, obligatory schooling in creating and consolidating the nation as the bearer of the state, strengthening national identity, a feeling of belonging, of sharing a joint heritage as well as of national and linguistic homogenisation (Hobsbawm, 1992, p. 62; Hroch, 2005, especially pp. 99–102; at regional level Jahnke, 2005, 2011). Overall, modernisation, industrialisation and democratisation encouraged national and

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especially linguistic homogenisation as instruments of successful democratic governance and popular participation and control at the expense of linguistic and cultural diversity. This poses a challenge for all minority groups, which, with the increasing empowerment of the nation-state and its institutions, face both open, state-induced and more disguised, economically and socially induced pressure towards linguistic assimilation. Kymlicka advocates a theory of liberal multiculturalism to describe state–minority relations countering this pressure and designing states that ensure minority groups' cultural and linguistic survival (Kymlicka, 2008, 2015, 2018). Liberal multiculturalism builds on 'the belief that individuals have legitimate interests in their culture, language and identity and that public institutions must fairly consider those interests' (Kymlicka, 2018, p. 81). The state's responsibility is to ensure the institutional conditions relating to the public recognition of language and culture while individuals make free choices based on that background (Kymlicka, 2018, p. 81). Liberal multiculturalism is thus a reaction against nation-building processes that seek to undermine the viability of minorities' cultural survival (Maciel, 2014, p. 385).

Therefore, non-territorial autonomy (NTA) maintains the need to establish cultural self-administration to realise minorities' linguistic, cultural and educational rights. The implementation of NTA poses different challenges, as illustrated in the contributions to this anthology. This paper will concentrate on the dilemma of responsibility in a setting often considered a model of how to reconcile a national conflict and accommodate national minorities: the Danish–German border region of Schleswig (Kühl, 2005; Kühl & Bohn, 2005; Kühl & Weller, 2005). The Danish–German minority settlement is characterised by respective recognition by the state of residence and generous kin-state financial support to operate minority educational and cultural institutions, primarily organised as member-driven private associations. In principle, it ensures the possibility of living as a Dane in South Schleswig or as a German in North Schleswig from birth to death. As will be demonstrated below, it is prone to narratives of privileged minorities where generous kin-state funding has established an educational system that is superior to public schools. This system is perceived to attract the majority population, or more specifically, parents, who choose minority schooling for their children for perceived material benefits. Such narratives raise issues about recognition and fairness in minority and majority treatment and education. Fairness has usually been treated from a minority perspective: in a discourse on affirmative action policies of the 1990s (Neas, 1995), of equal opportunities (among others, Sardoc, 2016) and more recently in discussing the creation of institutions that ensure fair treatment of minority members (Dierckx et al., 2021; Salmi & Bassett, 2014; Valcke et al., 2020). In Schleswig, the discourse of fairness is reflected in the narratives of a majority perspective. This has also been the case in affirmative action discourses, but rarely when scrutinising the accommodation of national minorities' cultural, linguistic and educational rights.

2 Minority Schools

Minority schools and their funding were already referred to in the minority treaties of the League of Nations, concluded as a part of the WWI peace settlements (Wisthaler, 2011, p. 25). The UNESCO Convention against Discrimination in Education (1960) refers to minorities' rights to operate their educational activities (Wisthaler, 2011, p. 25). The European Charter for Regional and Minority Languages (Language Charter, Council of Europe, 1992) and the Framework Convention for the Protection of National Minorities (FCNM, Council of Europe, 1995) have introduced legal standards to secure these rights (Kymlicka, 2008). However, implementing these rights still depends on the states' decisions as to which groups should be granted minority status. Spiliopoulou Åkermark considers affirmation of minority languages and cultures to be primarily instrumental, mainly seeking the social integration and assimilation of minority groups rather than promoting the importance of minority cultures for members of the minorities and for the societies in which they live (Spiliopoulou Åkermark, 2012), implying that there is room for improvement.

In principle, the FCNM and the Language Charter imply the state of residence's responsibility to provide the necessary resources for its implementation. The logic behind this is that minority members, according to the FCNM, are citizens of the state in which they live. Thus, the two charters do not apply to migrants and their descendants but to autochthonous minorities only. In practice, the decisive role of the kin-state and its cross-border minority policy within an understanding of shared nationhood is evident in many minority-kin-state constellations. Here, the kin-state's support may be pivotal to the operationality of institutional settings to implement minorities' linguistic, cultural and educational rights. As Waterbury has stated, 'kin-state support for minority language acquisition, maintenance and everyday usage can give members of the minority the option to become bi- or multi-lingual, thereby expanding their economic, educational and overall life opportunities' (Waterbury, 2021, p. 44). Thus, kin-state embeddedness offers attractive opportunities for minorities and the kin-state. This is illustrated by the example of Hungary's key policies targeted at the country's kin-minorities abroad, which have facilitated migration to Hungary when its population has declined (Waterbury, 2021, p. 41).

Therefore, the question I raise in this paper is whether kin-state support for minority cultural and educational institutions raises a dilemma, as it primarily relieves the state of residence from its obligations towards its minorities and, secondarily, even threatens the minority's continuous existence by encouraging migration to the kin-state. The latter especially applies in minority-kin-state settings where socio-economic differences could be a pull factor for kin-state-directed migration.

3 Background: Schleswig as a Case of Border Delineation in Line with National Self-Determination and Minority NTA

I will illustrate this dilemma with a case study of the reciprocal minorities in the Danish–German border region of Schleswig (Fig. 1).

Today's Danish–German border is a product of the post-WWI peace order. It divided the former Duchy of Schleswig, a territory that caused a national conflict between Danish and German nation-state projects in the nineteenth century (Bregnsbo, 2016). Although the region's ethnic composition has been blurred since mediaeval times, top-down acculturation into German culture has proceeded slowly, especially since the Protestant Reformation in the sixteenth century. In effect, a clear national boundary did not exist. Linguistically, the local Danish dialect remained strong in the rather wealthy northern rural areas and the rather poor midlands, while German replaced it in the south (seventeenth century) and the wealthy Mideast (nineteenth century). Furthermore, Germans dominated the urban elite. Proto-national and national identities have not necessarily been tied to language but remain volatile and multiple, oscillating during crises (Klatt, 2012, 2019). The exact location of the border was negotiated between Denmark and the Allies at a

Fig. 1 The Danish–German border region

peace conference, where Denmark insisted on implementation by plebiscite. The terms of this plebiscite, applied to two zones voting on 10 February and 12 March 1920, followed a design outlined by the North Schleswig Danes' leading political figure, H. P. Hanssen, confirming the previously drawn line of separation (Fink, 1979, 1995). The dissenters of the plebiscite (about 25% in North Schleswig had voted for Germany, about 20% in South Schleswig had voted for Denmark) were promised minority rights and cultural autonomy, guaranteed by the Weimar constitution in Germany and specific educational laws in Denmark (Becker-Christensen, 1984; Noack, 1989). When the so-called reunification of Northern Schleswig with Denmark was celebrated in the summer of 1920, the Danish Prime Minister promised the Danish-oriented Schleswigians left behind in Germany that they would not be forgotten (*De skal ikke blive glemt*).[1] These words laid the ground for the motivation for Danish kin-state support and are still its moral base today.

Nevertheless, the interwar years were troublesome: Germany and the German minority did not accept the new border. The terms of the plebiscite were considered unjust, as North Schleswig's vote was counted en-bloc, ignoring local German majorities in the towns of Tønder, Aabenraa and Sønderborg (Becker-Christensen, 1990). Politically, the minority's representatives in the Danish parliament reiterated their claim for the 'reunification' of North Schleswig with Germany (Klatt, 2015). In addition, the Danish minority struggled, being numerically small and facing the challenge that many of its members, especially their children, did not know the Danish language (Noack, 1989). Furthermore, there was considerable opposition to the border within nationalist circles in Denmark, manifesting itself in supporting missionary efforts to convince South Schleswigians of their Danish heritage, roots and souls (Johnsen, 2005). The German minority's collaboration with the Nazi occupation of Denmark from 1940 to 1945 put a severe strain on Denmark's relation to the minority after liberation (Hansen & Kristensen, 2005), while demands for a border revision to the south raised anxiety in post-WWII Germany (Noack, 1991).

However, post-WWII geopolitics required Danish–West German détente. Following West Germany's accession to NATO in 1955, the Danish and West German governments declared the two reciprocal minorities' rights to cultural autonomy, kin-state connections and kin-state support, with minority membership being based on personal decisions and not subject to state scrutiny or verification (Kühl, 2005). The Bonn-Copenhagen declarations of 1955 laid the ground for building coexistence and cooperation between minorities and majorities, 'moving from negative to positive peace' (Hughes et al., 2020, p. 2). The German minority declared that collaboration with Nazi Germany had been a terrible mistake and declared their loyalty to the Danish state and the 1920 border. They redefined their identity as Europeans and their

[1] Prime Minister Neergaard's speech is available here: https://graenseforeningen.dk/om-graenselandet/leksikon/1920-statsminister-niels-neergaards-tale-paa-dybboel-11-juli.

mission as building bridges between the Danish people and the continent to further European integration (Klatt, 2006; Lubowitz, 2005). In South Schleswig, the suspicion that the Danish minority and Danish nationalist circles harboured the long-term aim of border revision continued well into the 1960s. However, Denmark's accession to the European Community in 1973 changed the discourse into de-bordering and cooperation (Klatt, 2006). Afterwards, the Schleswig approach to conflict resolution and minority accommodation has been widely considered a 'model' (Klatt, 2014).

The principal model of reciprocal, functional minority NTA in Schleswig is based on separate cultural and educational institutions, church congregations, nursing homes, social services, sports clubs and other associations. The Danish–German model of financing minority institutions is characterised by the important role of material and idealistic kin-state support. Central to both minorities are their kindergarten and school systems. Experiments with public minority schools during the interwar years (especially for the German minority in North Schleswig) and shortly after WWII in Danish-friendly municipalities in South Schleswig were dropped in favour of private educational institutions operated by member-driven minority school associations. Presently, minority educational institutions in North and South Schleswig operate as private institutions, following the state of residence's law on private educational institutions. Nevertheless, they are self-perceived as minorities' public schools, especially in political discourses equalising them with other private educational institutions.

All minority institutions and associations are thus co-funded by the state of residence and the kin-state. This model of responsibility sharing is universally accepted. However, resource conflicts have been present, usually grounded in the argument of a lack of equalisation. This means that state-of-residence public funding for minority institutions and associations, usually at the municipal level, does not match funding for similar majority institutions and associations. The usual majority narrative when denying equalisation in such resource conflicts is that Danish minority institutions and associations are generously supported by the kin-state, thus already maintaining higher quality standards than comparable majority institutions and associations.

4 The 2010 School Conflict

While most of these resource conflicts pass unnoticed among the wider public and media, a one-sided reduction of state-of-residence financing of minority schools in South Schleswig seriously disturbed the minority peace in 2010–2012, creating a local crisis and affecting Danish–German bilateral relations (the following is based on Klatt, 2014; Kühl, 2012). The conflict materialised from negotiations for a post-financial crisis austerity budget in the German state of Schleswig-Holstein, where the ruling government decided to reduce the state funding of minority schools from 100% equivalence of the state's

public school funding to just 85%. The background of this measure demonstrates how global developments such as the global financial crisis impact the local: German pressures on EU financial stability and public debt limitations, particularly the Greek bailout, induced similar domestic measures such as the constitutionalised 'debt brake' for German federal and state budgets—which locally resulted in a severe resource conflict over the financial responsibility towards minority educational institutions.

The proposed reduction caught stakeholders by surprise. It was communicated rather unexpectedly after the Pentecostal retreat of the Schleswig-Holstein government to discuss budget issues. Timed just before the minority's *årsmøde*, its annual three-day get together, the minority's daily newspaper Flensborg Avis ran the headline 'Direct attack on the minority', heralding the start of a belligerent *årsmøde*-weekend marked by resolute defiance (27 May 2010, read the vivid, onsite description of the emotions evolving in the minority in Hughes et al., 2020, pp. 11–12). This mobilisation of the minority continued in the coming weeks. Clearly perceiving these unilateral cuts to minority school funding as discriminatory, parents, pupils and kin-state politicians continued to fight for a revision of the cuts, using the slogan 'our kids are worth 100%, too'. Furthermore, many German politicians sympathised with the minority: state politicians of the opposition social democrats and Greens, but also members of the governing parties, the conservative Christian Democrats (CDU) and the liberal Free Democrats (FDP) at the federal level (a coalition of CDU and FDP ruled both in Kiel and Berlin at the time).

5 Discourse: The 'Wealthy Minority Schools'

It should seem obvious that a financing mechanism that allocates 85% of the average per-pupil public school costs discriminates against minority schools and is not acceptable for a majority–minority model considered best practice. When confronted with this, two leading representatives of the Schleswig-Holstein government (prime minister Peter Harry Carstensen) and the ruling party (chairman of the CDU parliamentary group Christian von Boetticher) attempted to frame a discourse of 'wealthy minority schools', referring to kin-state support. This discourse was not new in the Danish–German context. During the post-war crises following the German military defeat in 1918 and 1945, sympathy with Denmark was disparaged as materially motivated, using the term *Speckdänen*—'bacon Danes' (Jebsen & Klatt, 2014; Noack, 1991).

The basis of the argument of 'wealthy minority schools' was a report of the state audit institution (*Landesrechnungshof*) from 2006 (Schleswig-Holstein, 2006). This report claimed that the Danish minority school association had plenty of potential to make savings. The auditors reprimanded the many small minority schools, resulting in high per-pupil costs, higher teacher-per-pupil ratios compared to public schools and comparatively high net salaries for teachers compared to Danish public schools (which would be the alternative workplace for most minority schoolteachers). Furthermore, another factor

contributing to the narrative of the 'wealthy minority' was the opening of a new Danish high school, *AP Møller Skolen,* in Schleswig in 2008. Prior to this, the only minority secondary high school was *Duborg-Skolen* in Flensburg, founded in the 1920s. Geographically located in the north-east of South Schleswig, this has long involved logistical challenges and commutes for students living in the southern and western areas of South Schleswig. Thus, when the Danish AP Møller Foundation offered to construct a secondary high school in Schleswig, they received a warm welcome from the minority. A. P. Møller (1976–1965), one of the founders of the Danish logistics giant Mærsk, strongly supported 'reunifying' South Schleswig with Denmark in 1945. He had supported Danish activities in the very south of South Schleswig in the 1950s when the Danish government only funded Danish activities north of the Dannevirke-Schlei line, the linguistic border between Danish and German in the early nineteenth century.

The foundation's support was presented as a gift to the minority, resulting in a school building designed by C. F. Møller, 'one of Scandinavia's largest and oldest architectural societies' (http://www.apmoellerskolen.org/om-skolen/skolens-historie.aspx, accessed 11 March 2022). The school was praised for its high standards, causing some envy among majority-school stakeholders who also feared competition in student recruitment (disclosed to the author by AP Møller Skolen's first principal, Jørgen Kühl). While the school building surpasses the standard of German public schools, this does not indicate a generally higher standard of the minority's educational infrastructure compared to similar German or Danish public schools.

Oral comments revealed that Prime Minister Carstensen and his parliamentary lieutenant von Boetticher still held the 'bacon Danes' view. When confronted by minority members at the state's annual *Schleswig-Holstein Tag* in June 2010, Carstensen advised minority members to send their children to a (majority) public school if they wanted 100% (Kühl, 2012, p. 25). At a political meeting with the chairman of the Danish Regions of South Denmark, a political friend of Peter Harry Carstensen, the latter reiterated his perception of minority schools' privileged financial situation (Kühl, 2012, pp. 25–26). The perceived privileging of minority schools was confirmed by state parliament representative Heike Franzen on behalf of the whole CDU parliamentary group (Kühl, 2012, p. 36).

Christian von Boetticher argued on his Facebook page:

> Please explain to me why we should finance the Danish schools' bank savings with money which we need to borrow from the bank at the expense of our children and grandchildren! Why should we hereby finance staff and facilities that no German school can afford? And why are there children attending these – at least for German children – private schools, where neither parents nor children profess to be Danish, but openly admit that they only attend Danish schools because they have better facilities? In light of these indisputable facts, it is almost

> cynical towards pupils in German schools to talk about discrimination and disadvantaging! There is, in consequence, no need to reconsider the decision [of the cuts], especially as the state cuts are compensated with federal funds. (Kühl, 2012, p. 37)

In an interview with the daily newspaper of the German minority in Denmark, *Der Nordschleswiger*, von Boetticher reiterated his perception of discrimination against majority pupils:

> It must be ensured that the German that attends a German school does not end up feeling stupid. There should be no misconception that the person who chose Danish-ness and a Danish education when entering elementary school is the smart one, while the person that stayed with German and had to attend German school, is the loser. That must not happen. (Kühl, 2012, p. 48)

It is a fundamental principle of the Schleswig minority settlement that minority membership is a personal choice not to be questioned by state authorities. Therefore, such statements indicating that material motives decide parents' choice of minority school for their children are a challenge to the settlement.

6 Bilateral Action: The National Governments Take Charge

The German and Danish national governments' involvement illustrates the conflict's gravity. In the 1950s, the two national governments applied much pressure, especially on the state government of Schleswig-Holstein, to achieve a settlement (Kühl, 2005; Noack, 1997). Thereafter, however, the implementation of the NTA was left to regional and local authorities in cooperation with the minorities' association. The renewed involvement of the national government indicated a serious problem. Particularly, the compensation for state cuts by federal funds was revolutionary, as the German federal system allocates education as a responsibility of the states. Furthermore, the thorough investigation of the mixed kin-state and state-of-residence financing of minority school systems revealed an imbalance in Germany's favour. According to Danish calculations, implementing the financial cuts would have resulted in Denmark financing 63% of the reciprocal Danish–German minorities' institutions, with Germany financing the remaining 37% (Danish Minister of the Interior Bertel Haarder, cited by Kühl, 2012, p. 29).

The minority contemplated taking legal action but eventually decided to punt on a political solution after the 2012 state elections. These induced a new coalition government of the social democrats and the Green Party, joined by the minority party South Schleswigian Voters' Association (*Südschleswigscher Wählerverband*, SSW), which quickly returned to 100% equivalence. The crisis was solved, but it also led to questions over whether the Schleswig model

could be considered a European best practice (Hughes et al., 2020; Klatt, 2014; Kühl, 2012). Since then, the 100% principle has remained a political consensus. When the CDU was back in government in 2017, leading a so-called Jamaica coalition (with the liberal FDP and the Green Party), new Prime Minister Daniel Günther clarified that their government had no intention of deviating from the 100% principle and that they aimed at strengthening cooperation with Denmark and the Danish minority. This also applies to the recently (May 2022) elected government of the CDU and the Green Party.

The conflict of 2010–2012 illustrates the dilemma of responsibility. While all parties agree that Danish–German and minority–majority relations are excellent, kin-state support can become a sensitive issue. This applies especially to the Danish minority in South Schleswig, where kin-state support is about 50% of the actual costs of minority institutions. In the school associations' budget for 2018, for example, 47% of the costs were covered by funds from the kin-state.[2] The German minority schools in Denmark receive about 70% of their funds from the state of residence,[3] illustrating a lack of equivalence in kin-state support vs state-of-residence funding and illustrating that both minority school systems depend on kin-state support to fulfil their tasks within minority education.

7 Consequences

The case of Schleswig, especially the evolving discourse around Schleswig-Holstein's unilateral funding cuts in 2010, demonstrates the sensitivity of formal non-territorial autonomy arrangements to overarching political developments, which, at first sight, do not correlate to minority–majority relations. The global financial crisis, German-inspired EU austerity, the Greek bailout and German measures to secure sustainable public budgets challenged a well-established norm: the combined kin-state and state of residency financing of minority educational institutions. It was unbalanced from an equivalence of 85% in relation to majority public institutions, based on the argument that minority institutions had been privileged by their 'additional' kin-state funding. This norm had not been legally formalised or internalised by all relevant stakeholders. While the German federal government, formed by the same parties as the state government of Schleswig-Holstein, realised the important dimension of these cuts for Danish–German relations and the perception of Germany's minority policies, the decision-makers in Kiel and their local political hinterland remained stubborn. Here, stakeholders insisted on the privileged situation of Danish minority institutions because of their supplementary access to perceived enormous financial resources from Denmark.

[2] http://www.skoleforeningen.org/media/4497426/Foreloebigt-budget-2019-og-prognoser.pdf.

[3] http://www.dssv.dk/der-dssv.9596.aspx.

This raises more general issues of a state's responsibility towards its minorities. Germany and Denmark perceive themselves as liberal democracies that adhere to European conventions, including minority rights. Both countries recognise borderland minorities as belonging and have adopted minority policies in line with liberal multiculturalism, respecting and protecting borderland minorities' cultural structures. However, the implementation of this cultural, non-territorial autonomy depends on kin-state financial support. It could be argued that relying on kin-state funding is, in principle, contrary to the spirit of European minority rights conventions, especially on recognition. Kin-state dependency challenges Kymlicka's claim of state responsibility of 'ensuring fair background conditions, including institutional conditions relating to the public recognition of language and culture' (Kymlicka, 2018, p. 81). As revealed here, it also raises questions about privileging minorities when there is a considerable perception at the highest political level that the added value of kin-state financing, in effect, creates preferences in the majority population to choose the minority school system. Therefore, NTA settings should be sensitive to navigating between kin-state and state-of-residence frameworks. Legislation implementing minorities' linguistic, cultural and educational rights should emphasise the state of residence's responsibility to ensure diversity, incorporate minority associations and institutions and create a basis for a universally accepted, equal-quality framework of minority educational institutions.

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The Evanescence of Autonomy for Minority Groups: The Hungarian Minority in Romania and the Complex Nexus of Dependence

Andreea Udrea

1 Introduction

During the last two decades, kin-state engagement in Europe has been welcomed for its support in promoting the identity and language of kin-minority groups in their home-states. The trans-sovereign involvement of kin-states in the fate of their kin-minorities has primarily contributed to strengthening their identity and protecting and promoting their culture in the home-states. At the same time, many home-states have adopted policies that mainly attempt to address the inequalities between the majority and minority groups and which have advanced the recognition and accommodation of ethno-cultural minorities. In particular, policy measures intended to protect and promote the language and cultural heritage of ethno-cultural minority groups, to ensure their religious freedom and/or safeguard their land rights have contributed to the enhancement of their group autonomy. Overall, these developments have advanced and strengthened the concept of autonomy for minority groups in Europe.

This paper examines the nature and extent of autonomy for minority groups in the context of the Hungarian minority in Romania. It shows that, rather

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than being a mechanism through which states fulfil their obligation to protect a people's fair opportunity for self-determination, at best, autonomy is only a vehicle through which minority rights are administered. According to the fifth national report that Romania submitted to the Council of Europe in 2019, 'the situation of the rights of the persons belonging to national minorities has improved substantially from one monitoring cycle to another and Romania can be considered as an example of good European practices' (Council of Europe, 2019, Introduction). However, a focus on the Hungarian minority highlights the extent to which the group's autonomy is entrenched in a complex nexus of political and economic dependence involving both the home-state and the kin-state. I argue that the exercise of autonomy in cases such as the one discussed here is at odds with the legal and political developments concerning the concept of autonomy for minority groups in Europe. This has not only weakened autonomy's normative foundations but also, more worryingly, made it evanescent.

2 The Conceptualisation of Autonomy for Minority Groups

Despite recent growing interest in the concept of autonomy for minority groups (Prina, 2020), not only is the right to autonomy still absent from international law but also autonomy for minority groups remains a contentious issue and continues to be rejected on the grounds that it threatens a state's territorial integrity and sovereignty. This is particularly the case in central and eastern Europe where the majority's right to self-determination remains historically anchored and originates in forms of cultural autonomy enjoyed under the Ottoman, Habsburg and Tsarist empires. However, international law continues to draw an artificial distinction between peoples and minorities: if peoples may enjoy a right to self-determination, the universal and equivalent obligation of states towards minorities is weaker and defined uniquely as a right to participate in cultural life with others (Gilbert, 2002). As such, autonomy has been viewed as a constructive approach to address the imbalance between majority and minority groups. In a seminal article published in 1999, Wright argues that autonomy represents a mechanism through which a right to self-determination can be extended to all people living within the territory of a state (Wright, 1999). However, the conceptualisation of autonomy remains normatively weak in the literature.

Historically, different forms of autonomy for minority groups have been permitted: from the millet system of the Ottoman Empire through to the experiments on national cultural autonomy during the Habsburg and Tsarist empires preceding the First World War and, later, in Estonia in the interwar period (Smith & Hiden, 2012). In the contemporary world, autonomy is used to label a capacity of a group for agency and is discussed in the context of territorial autonomy or power-sharing arrangements. The term is also employed in

reference to forms of self-rule in different areas of public policy, often education or culture but also taxation, housing and/or health care. If autonomy is further understood as being synonymous with control over issues of concern to minorities that impact on their existence as a group (Wright, 1999), many scholars point out that conceptualising autonomy is further complicated by the different forms these arrangements take. The analytical distinction between territorial and non-territorial autonomy continues to dominate the literature. This is in spite of mounting empirical evidence that autonomy remains largely exercised on a territorial basis and predominantly in the areas of culture and education (Coakley, 2016). In his welcome attempt to conceptualise non-territorial autonomy, Salat poignantly notes that the nature and extent of autonomy are further determined by the context and justifications of implementing such arrangements, legitimacy and support, institutional particularities, levels of entrenchment and outcomes (Salat, 2015). To summarise, the understanding of autonomy for minority groups seems to be dominated by practice rather than norms and is profoundly marked by the absence of a right to autonomy for minority groups in international law and, more generally, of a broader normative discussion underpinning its conceptualisation.

Overall, all forms of autonomy involve a direct or indirect acknowledgement on the part of a home-state of the value of internal self-determination to protect ethnic diversity. If equal recognition of ethno-cultural and religious distinctiveness is a minimum requirement to fulfil the liberal ideals of toleration and equal citizenship (Patten, 2014), Marko stresses that the effective exercise of autonomy is dependent upon the participation of minority groups in the democratic process (Marko, 1997). Nootens highlights a current consensus in the literature that autonomy is consistent with and conducive to integration. She stresses the importance of the recognition of ethno-cultural differences as well as the need to ensure the political, economic and cultural participation of members of minority groups in the public sphere in order to enhance such conceptions of autonomy (Nootens, 2015). However, she adds that the recognition of national minorities as cultural-linguistic groups may also become a powerful tool for national states to limit the range of claims such groups can make against the different ways in which the hegemony of a majority group may be exercised (i.e. dominance may manifest itself not only in the area of culture but also in economic and political spheres) (Nootens, 2015). Moreover, Prina notes that, in effect, many autonomy arrangements have disempowered minority groups (Prina, 2020) or have the potential to do so, as demonstrated by the case discussed here of the Hungarian minority in Romania.

Distinctively, rather than strengthening groups' freedom from domination, the demand for or the institutionalisation of autonomy for minority groups under many arrangements suggests a conceptualisation of freedom at odds with liberal and republican traditions. In Europe, the accommodation of national minorities has maintained and strengthened the interference of the home-state. A positive approach to accommodation has been seen as one in

which minority ethno-cultural identities and cultures are positively recognised and promoted by the state. According to Article 5 of the Framework Convention for the Protection of National Minorities 'the Parties [the member states] undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage' (Council of Europe, 1995). However, as anticipated by Pettit (1996), conceptions of freedom which endorse state interference may create relationships of dependency, social hierarchies and/or enhance the use of arbitrary power. The case of the Hungarian minority is illustrative in this respect. In the following sections, I show that the autonomy of the Hungarian minority in Romania has become embedded in the power structure and that its exercise is increasingly dependent upon kin-state funding. I further argue that this complex nexus of economic and political dependence on both the home-state and the kin-state makes it increasingly difficult to argue that the autonomy of the group is consistent with an obligation to protect a fair opportunity for self-determination.

3 Cultural Autonomy in Romania: A Dream That Hasn't Come True

Ethnic Hungarians continue to be the largest national minority in Romania, totalling 1,227,600 in the 2011 census (National Institute of Statistics of Romania, 2011). In the first two decades after the Second World War, Romania treated its Hungarian minority generously. Stalin returned northern Transylvania to Romania on the condition that it granted the members of cultural minority groups the same privileges as those enjoyed by the majority, as well as linguistic and cultural rights (King, 1973, pp. 146–169). As early as 1945, the Groza government responded to the demands of the Hungarian National Democratic Union by implementing a series of policies in relation to the use of and education in the Hungarian language, the creation of a Hungarian university and the establishment of an autonomous Hungarian administrative region in north-east Transylvania (King, 1973, pp. 147–152; Rothschild & Wingfield, 2000, pp. 106–113). The Hungarian Autonomous Region was established by the 1952 Constitution and, although its boundaries were modified in 1960,[1] it remained in existence until 1968 (King, 1973, pp. 146–169).

The Hungarian Revolution of 1956 and the rise of socialist nationalism in the mid-1960s represented a turning point in the treatment of the Hungarian minority in Romania. Gradually, the Romanian government started to pursue policies aimed at assimilating the Hungarian minority: Hungarian language schools became bilingual, the Hungarian University of Cluj was merged with

[1] The governmental decree which modified the frontiers of the Hungarian Autonomous Region also changed its name to Mureș-Magyar Autonomous Region.

the Romanian one and the process culminated with the administrative reorganisation of 1968 which put an end to the Hungarian Autonomous Region and split it into three counties (King, 1973, pp. 146–169). However, following the Prague Spring of 1968, conditions for cultural minorities improved. Over the couple of years that followed, the Romanian government allowed the publication of books, newspapers and periodicals in minority languages and improved educational conditions for minority groups (King, 1973, pp. 146–169). The situation dramatically changed in the early 1970s when Ceauşescu became president of Romania. In the two decades preceding the fall of communism, the communist government pursued an aggressive policy of forced assimilation: public education in the Hungarian language was limited; the access of members of the Hungarian minority to certain jobs was restricted or entirely blocked; and a process of ethnic homogenisation of Hungarian towns in Transylvania and one of systematisation, which relocated the Hungarian peasantry to industrial towns across Romania, were simultaneously carried out between 1972 and 1989 (Bell, 1996; Presidential Commission for the Analysis of the Communist Dictatorship in Romania, 2006, p. 528).

The status and rights of national minorities, particularly the Hungarian minority, have, on the whole, remained contentious issues in Romania since 1989. In fact, nationalism, understood as the majority's attempt to maintain and strengthen its political, cultural and economic dominance, was still the driving ideology in the initial years after the fall of communism. Although one of the first measures taken by the Romanian authorities at that time was to ensure a constitutional right to parliamentary representation for all national minorities,[2] the Law on Public Administration, adopted in 1991, established Romanian as the only language to be used in official settings (Csergő, 2007). Moreover, the Law on Education, implemented in 1995, imposed additional restrictions on education in minority languages to those that had been in place since 1986 (Csergő, 2007). The situation improved for the Hungarian minority group after the elections of 1996 when the Democratic Alliance of Hungarians in Romania (UDMR) joined the governing coalition. Since then, provisions targeting cultural minorities, which refer to the use of and education in their mother tongues and their representation in parliament and local administration, although scattered in Romanian law, have strengthened the recognition of national minorities in Romania. Without doubt, the most significant achievement during this period was the amended Law on Local Public Administration of 2001, which grants cultural minorities the right to use their languages in public matters if the number of individuals belonging to a minority group passes the threshold of 20% of the community's population.

The notion of cultural autonomy was introduced for the first time in the Romanian legal system through the Draft Law on the Status of National Minorities, which was drawn up by the UDMR in 2005, two years before

[2] According to Article 59 of the 1991 Romanian Constitution, now Article 62 of the amended Constitution of 2017.

Romania became an EU member-state. Intended to replace Law no. 86 on the Status of National Minorities, it has remained on the table in the Romanian parliament since 2005. Rejected by the Senate at that time, in 2012 it was brought back to parliament for further discussion, at the end of which it was resubmitted to the Parliamentary Committee of Human Rights, Denominations and National Minorities for further amendments. More recently, the UDMR failed in its attempt to bring the draft law back to the 2019 parliamentary agenda (Statutul minorităţilor naţionale, 2019). Decker argues that the main drawback of the draft law remains its incompatibility with the Romanian legal context (Decker, 2007), which has not been addressed since the law's inception in 2005.

The draft law represents a turning point for prospective improvements in the accommodation of national minorities in Romania. It lays down a series of collective and individual cultural rights, which, on the one hand, refer to cultural reproduction and cultural autonomy and, on the other hand, establish and define the powers of institutions and organisations protecting and promoting the culture of minorities. Although the beneficiaries of the law appear to be minority communities, several of its provisions set out amendments to the current legislation to establish a commitment to equal respect of Romanian citizens as members of national minority groups and to equal recognition of their cultural identity and differences. The draft law includes the prohibition of any form of discrimination based on language, culture or religion and proposes increasing the cultural autonomy of national minorities.

Article 57 of the draft law defines cultural autonomy as 'the capacity of a national minority to exercise decision-making powers regarding issues pertaining to its cultural, linguistic and religious identity through councils selected by its own members'. Article 58 further specifies the areas in which cultural autonomy applies, namely education in minority languages, media, cultural heritage and the management of financial support received from the state.

Despite a lengthy critique of the draft law, the Council of Europe notes, in its *Opinion* from 2005, that the introduction of cultural autonomy is viewed as a positive step in the direction of strengthening the participation of national minorities (Council of Europe, 2005). It further states that 'the form of cultural autonomy contained in the draft law would ensure real decision-making powers to the representatives of national minorities mainly through their binding consent, and not just consultation rights as is the case in some other countries' (Council of Europe, 2005, para. 59). While the Council of Europe praises the novelty and revolutionary character of this legislation, it points to a number of uncertainties contained in the draft—in particular, the envisaged institutionalisation of cultural autonomy that may weaken its exercise (Council of Europe, 2005). It also highlights that the draft law does not clearly delineate the new competences of cultural autonomy from those of existing institutions, such as various state authorities, the Parliamentary Committee of Human Rights, Denominations and National Minorities, the

Council of National Minorities and organisations for citizens belonging to national minorities (Council of Europe, 2005, paras. 66–73).

It is important to note that some scholars have remarked that central and eastern European states, including Romania, often chose to pursue such policies not as a matter of justice but primarily because they viewed them as being beneficial in their efforts to qualify for EU membership (Tesser, 2003). However, the main developments regarding the accommodation of ethno-cultural diversity in Romania remain situated at the intersection of the domestic government's interests and external conditionality (Cârstocea, 2011; Decker, 2007; Kiss et al., 2018). Overall, since 1996, external pressures and domestic political bargaining have overwhelmingly defined the nature and extent of Romania's minority accommodation policies, while broader considerations of justice have been secondary, at best. With few steps taken to improve the accommodation of minority groups after Romania became an EU member-state, the institutionalisation of minority rights in Romania remains incomplete, volatile and politicised.

4 The Hungarian Minority and the Nexus of Dependence

The strengthening and preservation of the autonomy of the Hungarian minority have become increasingly dependent on the financial support received partly from the home-state, but mostly from the kin-state. While Romania's direct funding of its minority cultures has remained modest, Hungary's support of its kin minority in Romania has diversified in nature and significantly increased over the last decade.

Romania's Funding of Minority Cultures

The Romanian state financially supports only those national minority groups represented in the Romanian Parliament. As noted above, the right to parliamentary representation of all national minority groups has been constitutionally safeguarded since 1991. Article 59 of the 1991 Romanian Constitution, now Article 62 of the amended 2017 Constitution, guarantees the political representation of national minorities, stating that 'organisations of citizens belonging to national minorities, which fail to obtain the number of votes for representation in parliament, have the right to one deputy seat each, under the terms of the electoral law'. However, financial support is allocated and managed through the Council of National Minorities, broadly defined as one of the consultative bodies of the Romanian government. Initially set up in 1993 to bring together all organisations representing national minorities (Romanian Government, 1993, Art. 1), in 2001 representation on the Council was reserved exclusively for those organisations that obtained a seat in parliament (Romanian Government, 2001, Art. 2). According to the updated

regulations, each minority, regardless of its size or socio-economic characteristics, was allowed to send only three representatives to the Council (Romanian Government, 2001, Art. 2).

The total budgetary allocations for national minorities on the Council have gradually increased from 90,000,000 lei (circa £20,000,000) in 2001 to 172,056,000 lei (circa £30,000,000) in 2021 (Romanian Government, 2021). Each organisation receives an amount determined largely by the size of the minority group it represents, the cultural and educational activities it plans to undertake that year, its specific social-economic characteristics and its level of influence on the Council (Cârstocea, 2011). The Hungarian minority, now represented by the UDMR,[3] is the largest minority group in Romania, totalling 63% of people belonging to national minorities, and receives the largest percentage of the allocation (circa 19%), followed by the Roma (14%) and German (8%) minorities.

In its recent report to the Advisory Committee on the Framework Convention for the Protection of National Minorities, Romania acknowledges that it continues to provide financial support to all national minority organisations represented on the Council of National Minorities and recognises the need to provide further funding (Council of Europe, 2019). A symbolic increase in funding followed in 2021. Interestingly, however, the report notes that the money allocated to national minorities has been spent mainly on the purchase, construction or refurbishment of workplaces, equipment and salaries rather than on the protection and promotion of the minorities' identity and culture (Council of Europe, 2019).

The Role of the Kin-State

The engagement of the kin-state, which started in 2001, has gradually modified the nature of the accommodation and the living conditions of the Hungarian minority. By the mid-1990s, Hungary had signed bilateral agreements with both Romania and Slovakia, which ultimately aimed to strengthen the protection of the Hungarian minorities in the two states and their commitments to achieve fair accommodation of their minority groups. However, the almost unanimous vote in favour of the adoption of Act LXII on Hungarians Living in Neighbouring Countries in 2001 reflected a general disappointment in the Hungarian parliament that the bilateral agreements had failed to improve the conditions of the Hungarian minority groups in those states to the point in which both Slovakia and Romania would have recognised them as partner nations to the respective titular majorities in each state (Bárdi, 2004).

Act LXII on Hungarians Living in Neighbouring Countries stipulated that a kin-state's duties included the identity and recognition of and support for

[3] Previously, the Hungarian minority was represented in the Council by *Fundaţia Comunitas* (Comunitas Foundation), an association subordinated to the UDMR (Cârstocea, 2011).

Hungarian culture abroad. Following amendments to the Act in 2003, its intended beneficiaries became almost 3 million people who are not Hungarian citizens and who reside in Croatia, the Federal Republic of Yugoslavia (now the Republic of Serbia), Romania, Slovenia, Slovakia and Ukraine (Hungarian Government, 2004). The obligations to support Hungarian culture abroad have a dual nature: on its own territory, the Hungarian state facilitates the equal access of its ethnic kin to education and culture while, beyond its borders, it promotes Hungarian culture and education within the kin-minorities' home-states. The extent of Hungary's trans-sovereign engagement is expressed in Articles 13, 14 and 18 (Hungarian Government, 2004). According to Article 13, the Hungarian state facilitates the establishment, functioning and development of departments in neighbouring states affiliated to accredited Hungarian institutions of higher education, as well as institutions of higher education using Hungarian as the language of instruction (Hungarian Government, 2004). Furthermore, Article 14 states that minors pursuing their studies in the Hungarian language or culture are entitled to grants and support to purchase books and learning materials (Hungarian Government, 2004). Lastly, according to Article 18, the organisations operating in neighbouring countries to preserve the Hungarian identity, mother tongue and culture are entitled to financial support from the Hungarian state (Hungarian Government, 2004).

A turning point in Hungary's engagement with its kin-minority groups is Act XLIV on Hungarian Nationality which took effect on 1 January 2011. The Act facilitates access to extraterritorial citizenship for those of Hungarian heritage whose residence in another state is either voluntary (i.e. emigrants of Hungarian heritage) or non-voluntary (i.e. members of kin-minority groups in neighbouring states) (Kovács, 2010). Increasing the number of new citizens through facilitating access to extraterritorial citizenship has dominated Hungary's kin-state politics in recent years. By December 2017, 1,000,000 people of Hungarian heritage living abroad had been naturalised as Hungarian citizens (Fidesz: National unity, 2017).

In parallel, Hungary has also targeted some initiatives at ethnic Hungarians from neighbouring states. Over the last few years, the Hungarian minority in Romania has become the main beneficiary of Hungary's kin-state policy. Figure 1 shows the evolution of funding targeting Hungary's kin-minorities between 1990 and 2015.

Since early 2018 the Hungarian minority in Romania has directly benefited from two new government-funded initiatives, namely the Hungarian Government Ordinance 2061/2017 on the assistance offered to organisations abroad and the Hungarian Government Ordinance 2074/2017 on providing the necessary resources for and ensuring financial assistance to programmes in Transylvania. Since 2017, economic cooperation has become a priority of the Orbán government (Kántor, 2019, 2022). In 2021, the Hungarian government created a new platform for investment in agriculture in neighbouring states (Ungaria pregătește, 2021). Criticism by the Slovak government appears

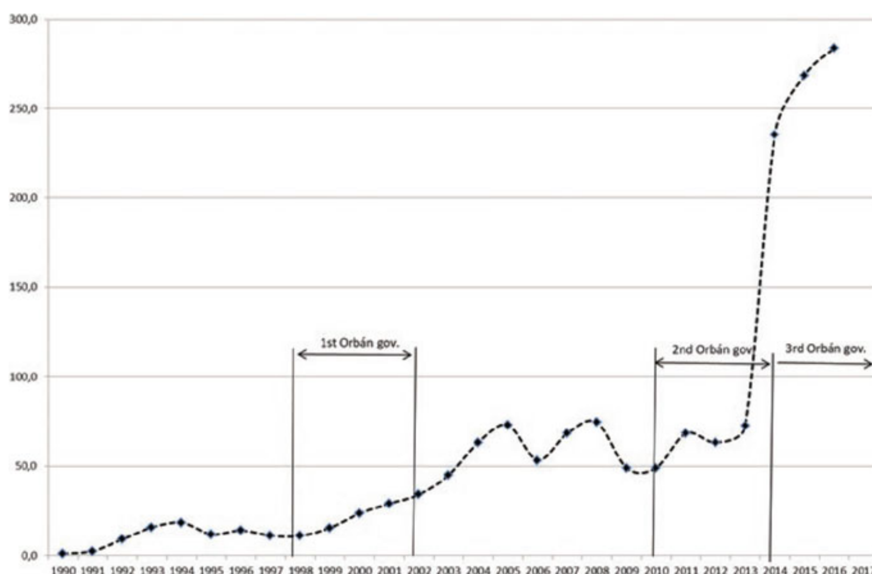

Fig. 1 The evolution of funding for kin-minorities between 1990 and 2015 (in million USD) (Kiss et al., 2018, p. 134)

to have slowed some of the planned investments in Slovakia (Hudec & Makszimov, 2021). However, despite the Romanian government's initial position against such economic programmes in 2019 (Guvernul Ungariei, 2020), they continue unabated in Romania.

The main instrument for the distribution of funding to neighbouring countries has been the Bethlen Gábor Fund (Hudec & Makszimov, 2021; Kántor, 2019). Initial data show that the amount of money the Hungarian government has allocated to kin-minorities has increased substantially since 2017 and has more than doubled between 2020 and 2022.[4] Moreover, according to Hudec and Makszimov (2021), in 2020, Hungary spent HUF 128 billion (circa £332,800,000), triple the amount allocated at the start of the year and which was directed at a diversity of actors and institutions. Previous investigations in Croatia and Slovakia reveal that this money was received by churches, cultural organisations, media outlets, sports teams and organisations linked to politicians of Hungarian ethnicity (Hudec & Makszimov, 2021; 'Money flows freely', 2018; Oroszi, 2018).

To conclude, Hungarian government policies in the last decade have not only strengthened ethnic identity and the ties between ethnic Hungarians and the current ruling party Fidesz but have also increased their dependence on

[4] Initial data showing a dramatic increase in recent years was presented by Tibor Toró at the Framing Kinstate Policies: Public Arena. Focus on Hungary and CEE conference which took place in Cluj/Kolozsvár/ Klausenburg, 26–27 May 2022.

the kin-state. In a recent article, Balogh poignantly notes: 'The Transylvanians received not only money from the Hungarian state but also citizenship and voting rights /.../ The Transylvanians will not be impressed by him [Péter Márki-Zay, the opposition candidate to Viktor Orbán] or anyone else from outside of Fidesz' (Balogh, 2021). However, experts in Hungary's kin-state policies are warning that the targeted kin-minorities are becoming very vulnerable to changes in the funding policy, noting that long-term financial sustainability has become the most pressing issue (Gazsó, 2022; Salat, 2022).

5 Conclusion

While the recognition and accommodation of national minorities in Romania has gradually improved, considerations of justice have been and remain secondary, at best. Indeed, as illustrated here, the accommodation of national minorities, and predominantly the Hungarian minority, has become increasingly disconnected from such considerations. The engagement of the kin-state, which started in 2001, has slowly modified the nature of the accommodation and the living conditions of the Hungarian minority. However, at the same time, the autonomy of the Hungarian minority has become entrenched in a complex nexus of political and economic dependence, involving both the home-state and the kin-state. I argue that the exercise of autonomy in cases such as the one presented here is at odds with the legal and political developments concerning the concept of autonomy for minority groups in Europe.

Distanced from considerations of justice, the institutionalisation and practice of autonomy for the Hungarian minority in Romania has not only weakened its normative foundations but, more worryingly, made it evanescent. Moreover, in the current geopolitical and economic context and with the appropriation of Hungary to Russia, the pivotal role of the kin-state in ensuring the autonomy and welfare of the Hungarian minority in Romania is now emerging as a threat rather than a guarantee of future wellbeing.

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Illiberal Forms of Non-Territorial Autonomy: The Sudeten German Party Case

Oskar Mulej

1 Introduction

Non-territorial autonomy (NTA) is a legal and political instrument for accommodating diversity—most often of an ethnic kind and usually within a single state framework. While Europe alone had known a variety of pre-modern forms of NTA, such as the Ottoman millet system and the *Unio Trium Nationum* (Union of the Three Nations) in Transylvania, it was the late Habsburg monarchy that saw its most important modern conceptualisations, devised for the era of nationalism and mass politics. In particular, the Austro-Marxist vision (Bauer, 1907; Renner, 1899, 1902, 1918) of reconsolidating Austria by providing its nationalities with cultural and linguistic autonomy on the basis of the personality principle[1] stands out as the most theoretically advanced example. It has up until the current day served as a common reference point for various non-territorial approaches to accommodating diversity. Whereas the pre-WWI Habsburg ideas—as well as those emerging in Tsarist Russia—were meant to implement NTA within multinational states, the interwar era above all saw attempts to utilise it in order to accommodate national minorities within nation-state frameworks. Perhaps the

[1] For the distinction between the 'personality principle' and the 'territorial principle', see Lukas (1908, p. 334).

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most successful attempt took place in Estonia. The 1925 Estonian cultural autonomy law[2] in turn came to represent the model solution advocated within the European Nationalities Congress (ENC), the largest transnational NGO speaking on behalf of European national minorities.[3]

What bound the pre-WWI cases, conceived for frameworks of multinational empires, to the interwar ones, designed primarily to accommodate minorities in nation-states, is that in both cases the scope of national autonomy was clearly delimited. It was meant to encompass only those aspects of human activity that were perceived as essentially *national*, as opposed to those that concerned the common good of all citizens and thus the *state* as a whole. This largely implied *depoliticising* nationality, whose domain was reduced to matters of language and culture, and, consequentially, *denationalising* politics by neutralising the competing nationalisms. The Austro-Marxists employed an argument, analogous to the secularist one, demanding institutional separation between matters of particular nationalities (conceived as cultural entities) and those of the state as their common political framework. By no means aiming to denationalise the young Estonian nation-state, the 1925 cultural autonomy law also essentially operated along similar lines by divorcing specific *national* matters, confined to the sphere of culture and education, from the common matters of *state* politics.[4] It must be stressed that in both cases 'culture' was conceptualised in a narrower sense, referring to things such as folklore, art and literature, and not to laws, customs and morality, for instance.

Another closely related commonality between the examples of NTA mentioned was that they were both designed to operate within a liberal state framework, arguably also being compatible with it in the sense of not encroaching on citizens' individual liberties and their legal equality. Belonging to a certain national group, and thus partaking in its autonomy, was basically a matter of free individual decision. At the same time, it did not imply any kind of differential rights, as all citizens, regardless of national belonging, were legally equal and subject to the same state law. Aiming to contain the nationalist conflicts by giving nationalities autonomy in their particular cultural matters, they simultaneously aspired to strengthen the common state framework and its central institutions. While aims of this type have comprised the major part of the modern history of NTA, the 1930s also saw the development of a markedly different variant, which was openly illiberal and radically nationalist. It found its practical materialisation in the autonomist legal proposals

[2] On the Estonian cultural autonomy law see Garleff (1990, pp. 87–107), Hasselblatt (1996), Housden (2005, pp. 227–249), and Smith (2005, pp. 87–107; 2016, pp. 89–104).

[3] On the ENC, see Bamberger-Stemman (2000), Eiler (2018), and Housden (2014).

[4] It is important to mention that the limitation of self-rule to cultural and educational matters resulted from a longer process of negotiation. While some of the earlier proposals foresaw a wider scope of autonomy that included political and economic powers, the removal of these effectively ended the 'state within state' debate and facilitated the adoption of the law (Alenius, 2007, pp. 452–454).

put forward in 1937 by the far-right Sudeten German Party (*Sudetendeutsche Partei*, SdP) in Czechoslovakia under the joint title *Volksschutzgesetze* (Laws for the Protection of Nationality). The aim of this paper is to present this lesser known case of NTA and discuss its main characteristics, and simultaneously identify the distinguishing markers of what may be termed as the illiberal adaptation of NTA of the *völkisch* type.

2 The Sudeten German Party and the *Volksschutzgesetze* of 1937

The founding of the First Czechoslovak Republic in 1918 simultaneously created a national minority problem that came to mark the entire 20 years of its existence. Encompassing the entirety of the historical Bohemian lands, along with the major part of what formerly constituted Upper Hungary, the young state included sizeable groups that did not belong to the titular 'Czechoslovak nation'. Taken together, these amounted to around one-third of the entire population. The largest were the German (representing approximately 23% of the Czechoslovak population) and the Hungarian (5.5%) minorities. Both were also distinguished by largely compact patterns of settlement, being concentrated within the strips of Czechoslovak territory that bordered their own co-national states. For this reason, the major part of the German minority counted as *Grenzlandsdeutsche* (borderland Germans) and not as *Auslandsdeutsche* (Germans abroad), which also largely explains their initial reluctant attitude towards transnational minority activism.

Despite the obvious preference for territorial designs—either of a secessionist or autonomist nature—interwar German minority politics also saw a number of proposals that contained notable non-territorial arrangements. This is not too surprising, given the fact that during the last decades of Habsburg rule Bohemian lands had already experienced experiments in non-territorial autonomy (Kuzmany, 2016). The Moravian Compromise of 1905 (see Fasora et al., 2006; Glassl, 1967; Kelly, 2003)[5] and the 1914 settlement in Budějovice/Budweis (see King, 2002, pp. 137–147) represented clear examples of the quest to solve the pressing nationality question. While not instituting autonomy in a strict sense, and being primarily consociationalist (Kuzmany, 2016, pp. 47–48), these settlements, as well as those in Bukovina (see Kotzian, 1992; Leslie, 1991) and Galicia (see Kuzmany, 2013), contained significant non-territorial elements such as national *cadasters* (registries) and *curiae* (electoral polls). These same elements were also clearly present in the draft laws that the Sudeten German Party put forward in 1937, and which foresaw a far-reaching reorganisation of the state on a purely non-territorial basis.

[5] For the later enhancement of the compromise, which was never implemented, see Malíř (2006).

Soon becoming synonymous with German nationalism in Czechoslovakia, the Sudeten German Party had been founded in 1933 as a highly heterogeneous assortment of various nationalist political groups and ideological orientations (Gebel, 1997, p. 376; Vierling, 2014, p. 98). Presenting itself not as an ordinary political party but as a broad popular movement, it aimed to unite all the Germans in the state, thus creating a united Sudeten German *Volksgemeinschaft* (ethnic community) under its leadership (Henlein, 1937, p. 21). In the 1935 state parliament elections, the SdP succeeded in attaining more than two-thirds of the German vote and simultaneously the highest percentage of all the Czechoslovak parties. Proclaiming loyalty to the Czechoslovak state, the SdP at the same time adopted a firmly oppositional stance, arguing that Czechoslovakia was not a nation-state, and demanding its reorganisation as a multinational one. From the outset, it was perceived by a large section of Czech public opinion to be an outpost of the Third Reich; its rapprochement with Hitler actually began in 1936, whereas full subordination to Nazi foreign policy can be established with full certainty only from November 1937 onwards (Brandes, 2010, p. 50).

Coming to be known as the *Volksschutzgesetze* based on the official title of the first of the six draft laws that the SdP presented to the Czechoslovak Parliament in April 1937, these proposals were a direct reaction to an agreement that the minority German parties (Social Democrats, Agrarians and Christian Socials) had concluded with the Czechoslovak government in February of the same year. They were a rather fast product, having been put together in haste with the aim of putting forward a positive legal alternative to the purely administrative concessions contained in the February Agreement.[6] While the last three bills more or less aimed at legally instituting the main promises of the February Agreement, such as the participation of nationalities in public institutions proportional to their share in the entire state population and the right to appeal to the Constitutional Court in cases concerning minority rights, it was the first three bills that contained the crucial provisions for national autonomy, at the same time also representing the main subject of dispute with the Czechoslovak government and Czech legal experts (Tóth et al., 2012, p. 366). It was also in these first three bills that the legacies of the late Austrian-era compromises were most clearly recognisable. At the same time, novel elements stemming from contemporary *völkisch* sociological, legal and political thought were clearly present, along with ideas about political and economic reorganisation along corporatist lines.

[6] This has been confirmed both by contemporary diplomatic sources as well as later testimonies: 'Ernst Eisenlohr an Auswärtiges Amt, 4.2.1938'. In *Akten zur deutschen auswärtigen Politik*, Serie D, Bd. II., pp. 94–95; TNA FO 371/22339, 28, Basil Newton: Czechoslovakia. Annual Report, 1937 (13.1.1938); Zpověd K. H. Franka: podle vlastních výpovědí v době vazby u krajského soudu trestního na Pankráci. Prague, 1947, p. 25.

The above listed sources have been brought to my attention by Dr. René Küpper (CC, Munich), to whom I am very grateful.

The most important was the 'Law on the protection of the national rights [*Volkstumsrechte*] through formation of associations of public law', in short '*Volksschutzgesetz*', put forward by Ernst Kundt.[7] In line with this, each of the main national groups of Czechoslovakia would form a national association (*Verband*), representing a person of public law. These would initially be founded by the parliamentary representatives of each nationality, which would at the same time form the association Board, or *Vorstand*. The Board of each national association would in turn elect a Speaker (*Sprecher*) and their Deputy, who—while themselves not being members of parliament (this being explicitly forbidden)—would be given the mandate to represent their national communities and their interests before state organs, as well as other national associations. After being consolidated, the national associations would legally comprise all the citizens of a given nationality. This would be done via compulsory registration of all Czechoslovak citizens in national *cadasters* (i.e. registries), enabling the 'inclusion of [all] the members of a nation on the basis of personal ethnic affiliation [*Zusammenfassung der Angehörigen einer Nation auf Grund persönlicher völkischer Zugehörigkeit*]' (Henlein, 1939, p. 18). The thus formed national associations—and more precisely their ruling organs—would be given a full mandate to represent their national communities and to co-rule the state, while also having broad, far-reaching and not clearly limited powers in administering the 'internal' life of a given nationality in the fields of culture, education, social policy and economy. This would, among other things, be done via numerous compulsory organisations of a corporatist character.

Taken together, the *Volksschutzgesetze* combined broad and far-ranging national autonomy with consociationalist arrangements (de facto national sectioning of the parliament, strict national proportionality in all state institutions and public enterprises). Whereas it remains unclear whether the national associations were envisaged to bear direct legislative and executive powers—the bills spoke only of 'delegated competences' (*übertragener Wirkungskreis*)—it was clear that in practice they would come to indirectly control both branches (Osterkamp, 2009, pp. 217, 220). The SdP bills left the question concerning the powers of central government institutions and their future role entirely unaddressed. It was clear, however, that these were to be significantly curtailed; in particular, the state parliament, while still nominally existing in its envisaged form of a central representative body, would become factually divided into national representations that would simultaneously form the Boards of autonomous national associations. In all respects, the 'package' clearly contained considerably more than any of the previous modern examples of NTA—and of national autonomy in general.

[7] Poslanecká sněmovna N. S. R. Č. 1937. IV. Volební období. 5. zasedání. Překlad. 897. Návrh poslance E. Kundta na vydání zákona na ochranu národnostních práv zřízením veřejnoprávních svazů (zákon na ochranu národností).

3 The Illiberal Adaptation of NTA of the *Völkisch* Type

The SdP proposals were significantly different from previous modern examples of NTA, devised for the framework of a liberal state, be that the pre-WWI ideas of Renner and Bauer on rearranging Austria or the contemporary example of national cultural autonomy for minorities in Estonia. Their package included considerably more, including substantial and far-reaching implications concerning the inner structure of the state, its mode of functioning and its very foundations. Most importantly, the tenets on which it was based were clearly illiberal and also potentially undemocratic. As such, the *Volksschutzgesetze* represented a model example of illiberal adaptation of NTA of a *völkisch* type. Its distinguishing traits included: involuntariness concerning national belonging; considerably wider scope for self-rule, extending far beyond the cultural sphere; lack of accountability of the national associations towards their members and essential subordination of the individual to the national group.

Now perceived as a body of an essentially political nature, the national group was to be constituted according to a binding and essentialising definition of nationality. The contemporary verdict of Elisabeth Wiskemann was that this would have created such barriers between particular nationalities as did not exist even between citizens of different states (Wiskemann, 1938, pp. 258–259). According to the second bill ('Law concerning national belonging of the state citizens and the national cadaster'),[8] every adult citizen would have the right and the duty to declare their nationality and enrol with the corresponding registry. This decision was meant to be a once-only and irrevocable one. It was furthermore not an entirely free one, as it had to be 'truthful',[9] corresponding to the language used in the family, and could ultimately also be decided by a special Cadaster court. This ultimately involuntary manner of determining nationality might also be understood as a legacy of the Moravian Compromise. However, the crucial difference lay in the once-only and irrevocable nature of the declaration, which was only to be made by the current generations of adult citizens. After their formation, the national registries and thus the membership of the national associations were to be fixed and sealed,

[8] B Poslanecká sněmovna N. S. R. Č. 1937. IV. Volební období. 5. zasedání. Překlad. Návrh poslance dr Köllnera na vydání zákona o národnostní příslušnosti státních občanů a o národnostních katastrech.

[9] Ernst Swoboda, professor of Law at the Prague German University and probable co-author of the draft laws, explained the purpose of the second bill as follows: 'In order to ensure the honesty of the law, care must be taken that every folk comrade [*Volksgenosse*] makes an honest confession to his nation, that he is not only not prevented from doing so, but is obliged to do so. The law on the national cadaster is intended to serve this purpose [*Um die Ehrlichkeit des Rechtes zu sichern, muß dafür Sorge getragen werden, daß sich auch jeder Volksgenosse ehrlich zu seiner Nation bekenne, daß er darin nicht nur nicht behindert, sondern dazu verpflichtet wird. Dazu soll das Gesetz über den nationalen Kataster dienen*]' (Swoboda, 1938, p. 27).

with the nationalities of all future generations determined in advance by those of their forefathers (Boyer & Kučera, 1997, p. 368).

The intended scope of national autonomy was considerably wider than in previous cases of NTA and stretched far beyond the spheres of culture and education, encompassing a wide array of other aspects of life that were now also considered to be essentially 'national'. In order to pursue their aims, the national associations had the right and duty to establish compulsory associations of a social, cultural or economic nature, or to enlist already existing ones; also to enlist compulsory or voluntary organisations of a cultural, economic, social or humanitarian nature; and to bring the statutes of these compulsory associations and compulsory or voluntary organisations into accord 'with the interests of their nationality' ("Die sechs," p. 578). The most striking implications concerned the economic sphere. For instance, the 'Law concerning the protection against any kind of denationalisation'[10] also included provisions for protecting 'national property' (*nationaler Besitzstand*). The latter term—an old nationalist battle slogan—thus gained fresh force, now for the first time being framed as a legal category, designating a concrete object, to be protected by criminal law. It was thus not merely people, but also material property, which were to be prevented from being denationalised. The latter again encompassed not merely land, factories and other enterprises, but extended even to jobs. If a certain workplace had already been occupied for a given amount of time by a member of a given nationality, it was to be recognised as *belonging* to that nationality—*as part of its Besitzstand*. This envisaged legal institutionalisation and protection of 'national property' implied a major hampering of the market, as it would have created a peculiar kind of national autarchy, 'which would furthermore not be defined territorially but personally' (Petráš, 2009, p. 251).

The all-encompassing nature of the proposed national self-rule was coupled with the virtual omnipotence of the national associations as its executors. Formed in a top-down manner, the governing organs of these associations lacked accountability towards the members that they were supposed to represent. The rather vaguely delimited authority of the Speaker—an institution that the French envoy in Prague De Lacroix compared to the Ottoman Millet system (Brandes, 2010, p. 70)—accompanied by weak democratic legitimation (Osterkamp, 2009, p. 218), lack of control mechanisms and accountability towards the membership clearly hinted at the '*Führerprinzip*' (Kracik, 1999, p. 350; Petráš, 2009, p. 250). According to Jana Osterkamp, the SdP bills aimed at recognising the '*Volksgruppe*' or the '*Volk*' as a legal subject of public law and as a link between the state and the individual (Osterkamp, 2009, p. 202). We find a similar verdict from Tóth, Novotný and Stehlík, who argue that the proposed laws represented 'legislative confirmation of

[10] Poslanecká sněmovna N. S. R. Č. 1937. IV. volební období. 5. zasedání. Překlad. Návrh poslance dr Köllnera na vydání zákona o národnostní příslušnosti státních občanů a o národnostních katastrech.

indisputable equivalence of individual-civic and collective-ethnic rights' (Tóth et al., 2012, pp. 362–363). This practically entailed turning individual citizens, now possessing a dual legal status as 'citizens-conationals' (*Staatsbürger-Volksgenossen*) (Thiele, 1938, p. 487) into 'passive objects of care', unable to enforce any kind of rights regarding their national associations (Petráš, 2009, p. 250; Tóth et al., 2012, pp. 361–362). Such a vision was entirely in line with the position that the leading SdP members took on civic rights in relation to nationality rights, which was closely linked to a specifically *völkisch* and organicist understanding of nationality. According to Theodor Veiter, an Austrian legal expert specialising in national autonomy and a supporter of the SdP bills, these were an expression of a 'new conception of nationality' (*neue Volkstumsauffassung*). In line with this, the national community possessed an 'absolute claim' over its individual members, who could also be coerced into putting themselves at their communities' disposal (Veiter, 1938, pp. 216–217).

The essential subordination of the individual to the national group, expressed via a lack of accountability of the national associations towards their members, was coupled with an unclear delimitation of competences between the national associations and the central government. The wide competences given to the national associations, along with their undefined relationship to the central state institutions, created a clear potential for the weakening of the democratically elected central governing bodies. In clear contrast to Renner's objective of strengthening the *Gesamtstaat* (common state) by neutralising nationalisms, they were clearly aimed at consolidating the nations as essentially political entities at the expense of the state, whose unity and sovereignty could be seriously diminished. Considerable shares of it would have passed to the nationalist leaderships of national associations. Their Boards would simultaneously comprise the state parliament, thus potentially transforming it from popular representation of one indivisible *Staatsvolk* or *demos* deciding on common matters—or what Renner had referred to as 'the state-building interests and factors' (Renner, 1899, pp. 25–26)—into a place of institutionalised struggle between particular ethno-national groups. As such, it would mainly function as a place for bargaining between the national associations. In the words of the Latvian German activist Paul Schiemann, one of the main protagonists in the interwar minorities movement, this essentially meant 'putting nationalism against nationalism' (Schiemann, 1937).

Leaving the door open also for the eventual introduction of elements of territorial self-rule (Mulej, 2022), the *Volksschutzgesetze* foresaw the transformation of Czechoslovakia not only into a multinational state but also into an ethnic federation. The federation in question was, however, not one of territories, but one in which the nations themselves would constitute the federal units. It aimed at transforming the 'democratic-individualistic state into a national-cooperative one' (Osterkamp, 2009, p. 202), a non-territorially conceived union of largely self-ruling national communities with a corporative inner structure and based on a binding and essentialising definition of nationality. In our opinion, such an arrangement represents a wider and more

all-encompassing form of national autonomy than any federation of ethnic territories would have. It was thus precisely the non-territorial foundation that enabled the fully maximalist character of the SdP autonomist programme, both in its scope and type. For the same reason, it is not surprising that the critique on the part of Czechoslovak constitutional and legal experts and officials from the Ministry of Justice was primarily against its rootedness in the personal principle (Osterkamp, 2009, p. 233; Tóth et al., 2012, pp. 423–425).[11]

4 The 'Sovereign Ethnicities' and the Path Towards National Totalitarianism

This chiefly concerned the sovereignty of the (nation) state. Apart from implicitly negating Czechoslovakia's nation-state character and effectively turning it into a 'state of nationalities' (multinational state), the *Volksschutzgesetze* implicitly posited nationalities as the basic carriers of political will and sovereignty, and as such the basic agents of statehood. This was not only the contemporary verdict of its Czech critics, such as Emil Sobota, who accused the SdP of trying to create 'a state within a state' (Sobota, 1938); it was also clearly manifested both in the statements made by their framers and supporters and in the legal theories that underpinned them. In particular, the theory of nationality law (*Volksgruppenrecht*) of Hermann Raschhofer, one of the key minds behind the SdP bills, was crucial here. At its core, namely, was the pseudo-Rousseauan notion of 'sovereign *Völker*', entities of an essentially political character, whose existence came before those of states. It was thus *Volk* as *ethnos*, and not *Volk* as *demos* (*Staatsvolk*), which acted as the primary carrier of sovereignty and political will. In central Europe, according to Raschhofer, the 'abstract people envisaged by Rousseau' had 'taken a concrete *völkisch* shape' (Raschhofer, 1938, p. 90). While in mononational states the two conceptions of *Volk* largely corresponded to each other, this essentially meant that multinational states such as Czechoslovakia consisted not of one sovereign *Volk*, but of a number of sovereign *Völker*. Encompassing the entirety of co-nationals, regardless of their place of residence, the sovereign *Völker* furthermore also acted as essentially non-territorial entities—subjects, who were not territorially ascertainable (Raschhofer, 1931, p. 78). This approach largely corresponded to the principles guiding the *Volksschutzgesetze* with their omnipotent national associations.

Deemed by the authors to represent a general template for solving the European minorities' question, and reflecting 'insights of all the previous European Nationality Congresses' (Kundt, 1937, p. 552), the *Volksschutzgesetze* also achieved wider acclaim in the minorities movement.[12] Observed

[11] CZ-ANM, I. Derer, K. 11 (526), 'Vorschläge für die nationale Selbstverwaltung, vom 16.6.1938'.

[12] See, for instance, Hasselblatt (1937), and other texts from the same issue of *Nation und Staat*.

from this broader perspective, the *Volksschutzgesetze*, nominally still acknowledging the democratic framework of the Czechoslovak constitution, at the same time remained half-way in terms of how far the illiberal renegotiation of national autonomy could have led (and in certain ways did lead). Observing a broader developmental trajectory of interwar legal designs for accommodating national minorities via collective rights, we may identify an unambiguous tendency towards illiberal solutions during the 1930s. From this perspective, the SdP proposals can be understood as merely one station within the process, albeit a very important one. They were a product of a broader endeavour, taking place in the transnational framework of European minority activism, particularly the European Nationalities Congress. Mainly German-speaking experts on nationality law (*Nationalitätenrecht*, *Volksgruppenrecht*), in particular the already mentioned Raschhofer as well as Werner Hasselblatt, played a crucial role. Their aim, stemming from the rejection of the existing minority protection based on individual rights, was to develop special legal frameworks for ethnic collectivities that were to be ultimately integrated into international law (Wheatley, 2017, p. 777).

In the most extreme variants that were fully in line with the National Socialist ideology (see, for instance, Gürke, 1932, pp. 7–30; Hamel, 1935, pp. 569–601; Walz, 1937), this could be coupled with racialist underpinnings, hierarchies among nations and a priori exclusion of certain groups of the population from the national community (Steck, 2003, p. 147). Furthermore, it could also give way to fully personal conceptions of law, theoretically allowing for separate legal codes for particular groups residing within the same territory. The discussed illiberal potential ultimately culminated during WWII in the totalitarian and racist National Socialist vision of a 'new Europe' as part of Third Reich imperialist designs. Once fully instrumentalised by the Nazi regime after 1938, the German *Volksgruppenrecht* underwent a transition from a 'pan-European' conception towards an openly Reich-centred one (Bodensieck, 1958, pp. 516–517). In particular, it manifested in the special legal statuses enjoyed by ethnic Germans who were citizens of the allied states in central and southeastern Europe such as Croatia, Hungary and Slovakia, or in occupied territories such as the Protectorate of Bohemia and Moravia or the Banate (Casagrande et al., 2016, pp. 209–251).[13]

5 Conclusion

The defeat of the Axis powers in WWII also marked the demise of the *völkisch* illiberal variant of NTA, which was largely left on the ash heap of history. Its case, however, warns us of the potentially illiberal aspect of NTA or, more precisely, an illiberal potential generally inherent in group-focused approaches to accommodating diversity. While meant to serve solidly liberal purposes,

[13] For the Croatian and Serbian (Banate) cases see in particular: "Volksgruppenrechtliche Neuregelungen," 1942, pp. 247–258.

such as empowering national and other minorities and protecting them from majorities' whims, the inherently groupist character of NTA may, however, also pose a challenge to liberal states and societies. This is particularly the case if its subjects, its scope and the rules governing them are not clearly defined and simultaneously subordinated to the broader legal and political framework of representative democracy based on the rule of law, limited government and individual liberties such as freedom of association. While the discussed illiberal *potential* should not be mistaken for *inevitability*, the historical case of the SdP draft laws can nevertheless offer an instructive example for contemporary debates, especially those concerning challenges connected to multiculturalism, illiberal communities within liberal societies, as well as cases of radical groups claiming to speak on their behalf.

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The Implications of Administrative Decentralisation on the Development of Non-Territorial Autonomy Practices: The Case of Romania

Valentina Cornea, Mirela Paula Costache, and Andreea Elena Matic

1 Introduction

Understanding institutional implications is one of the most difficult issues in both political science and sociology. The difficulty relates to the fact that institutions that operate well under certain social and economic conditions may be disastrous under others. With regard to ethnic harmony, it has been shown that some types of institutions may be more favourable than others. Heterogeneous populations seem to be more sensitive to rhetoric about decentralisation (Szabo, 2017, p. 127). It has been argued that ethnic fragmentation is less disruptive in democracies (Collier, 2000; Collier et al., 2001). Decentralised institutions offer ethnic and regional minorities a higher stake in the political system and encourage their representatives to pursue their objectives

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within that system (Lublin, 2012). The idea is that in this type of political system, minorities feel represented and less marginalised than in dictatorships (Alesina & La Ferrara, 2005). At the same time, decentralisation is a complex and controversial process. Unintentional effects can occur, such as the neglect of national interests, excessive political interference in processes that should be impartial and an unjustified increase in the influence of local elites over resources. Programmes and services can be 'captured' by the local economic and political elites, who can divert them towards their own interests (Cornea, 2017, p. 251). The existence of a legal framework is insufficient without the necessary institutions to go with it. In short, as Osipov notes, certain ideas can be firmly enshrined in law but their instrumental value may still be doubtful if implementation is insufficient and inconsistent (Osipov, 2012, p. 437; Smith, 2013). Thus, in a world where more and more societies are becoming multicultural, institutional support for differences and taking on the task of guaranteeing cultural survival becomes a real challenge. The range of political–administrative instruments designed to support minorities is extremely broad: it includes federal solutions for the delegation of state powers, the functional transfer of these powers through decentralisation, guarantees offered through the institution of cultural autonomy, and rights and compensatory policies for specific groups in the form of 'instruments of inclusion that take into account cultural differences' (Habermas, 1998, pp. 145–146).

This study examines non-territorial autonomy (NTA) as an administrative instrument or practical category (Osipov, 2018) from the point of view of administrative decentralisation. The aim is to shed light on how a decentralised administrative system creates the premises and a favourable context for cultural survival in a multiethnic context. The analysis is contextual and limited to the case of Romania. Romania is a unitary state, where the minority population accounts for about 11% of the total 20.1 million inhabitants (according to the 2011 census, http://www.ins.ro/). The most significant minorities in Romania are Hungarians, at 1.23 million (about 58.9% of total minorities), followed by Roma people, at 0.62 million (29.8% of minorities), Ukrainians (50,900 inhabitants or 2.44% of minorities), Germans (36,000 or 1.73%), Turks (27,700; 1.33%) and Russian Lipovans (23,490; 1.13%). Other groups—Tartars, Serbs, Slovaks, Bulgarians, Croats, Greeks, Jews, Italians, Poles, Czechs and other minorities—each make up less than 1% of the minority population (with 20,000 inhabitants or less). Our starting premise is that Romania's decentralisation model allows the development of practices associated with NTA. We support this argument by highlighting the main characteristics of the institution of decentralisation and analysing the legal and practical aspects of the ethnic dimension of decentralisation.

2 The Main Characteristics of the Institution of Decentralisation

Decentralisation is a method of internal organisation of the nation-state. It is defined by the relations established between the central government and regional and local institutions (Savy et al., 2016). In general terms, it represents the transfer of power prerogatives from a higher level to a lower level in a political–administrative and territorial hierarchy. There is even a theorem of decentralisation which holds that if the area of consumption of a public good extends to several local communities and its cost of production is the same at both central and local level, it will always be easier for that good to be produced in optimal quantities, in the Paretian sense, at the local level than at the central level (Oates, 1999). The logic of decentralisation lies in the territorialisation of public policies (Cornea, 2017, p. 200). In this respect, decentralisation is not based solely on the concept of transfer of power prerogatives, but rather on increasing the functions, competencies and resources of a lower level of administration. An example would be the development by the lower level of administration of its own tax base or its assumption of new functions, without requiring transfers from the central government (Cornea, 2017, p. 203). The essential feature of decentralisation is that a variety of social players are involved in the implementation of the act of governance, regardless of which sector they belong to: government, the private sector or civil society. This feature is captured in a broad definition provided by Cheema and Rondinelli: decentralisation represents the transfer of responsibility or planning, management, attraction and allocation of resources from the central government and its agencies to: (a) units in the territory of government ministries or agencies; (b) subordinate units or levels of government; (c) semi-autonomous public authorities or corporations; (d) regional or functional extended authorities; or (e) private non-governmental or voluntary organisations (Cheema & Rondinelli, 2007). Decentralisation may also boost equity and accountability; for example, it may be a vehicle for institutions that empower marginalised or disadvantaged ethnic groups at the local level (Dunning, 2019, p. 248).

3 Decentralisation in Romania

In the early 1990s, most central and eastern European countries began extensive administrative reforms, one of the major principles being decentralisation. Under international pressure rather than under the influence of national beliefs and interests, for Romania 1991 represented the beginning of administrative system reforms. A difficult and time-consuming process, decentralisation is much easier to plan than to put into practice (Pollitt & Bouckaert, 2011), and Romania is no exception (Profiroiu et al., 2016, pp. 382–384). From the introduction of this concept in the 1991 Constitution to the present

day, the benefits of decentralisation have been considered extremely unsatisfactory. The transfer of competencies from the central to the local level (the essence of decentralisation) was limited and was mainly achieved by adopting laws which were summarised in the descriptive content of the competencies of local authorities. A gradual and extremely cautious approach to the implementation of decentralisation was favoured. But despite the failures recorded in the decades after the start of reforms in Romania (Carp & Sienerth, 2014, pp. 1227–1228), the following positive aspects can be noted:

- The concepts of decentralisation and local autonomy are mentioned in the Constitution;
- The public authorities at the local and intermediate levels of administration are elected directly by the citizens;
- Many services at the central level have been deconcentrated and decentralised at the level of the two levels of administration;
- The parliament has adopted a framework law on decentralisation, methodological rules for the implementation of this law and a law on local public finances describing the principles and sources of public funding;
- The general approach of recent governments is towards decentralisation rather than centralisation (Profiroiu et al., 2016, pp. 382–384).

The need to systematise legal rules led to the adoption of an Administrative Code. When this came into force (in July 2019), the law on decentralisation was repealed, the principles and institutional framework of decentralisation now being found in Title II of the Administrative Code.

Both the Administrative Code and other laws contain a number of provisions on minorities. Studies show that the decentralisation process has given local levels of administration competencies covering about 34 areas. The protection of minorities is not an explicitly worded competency, but rather results from other competencies—especially those in the fields of culture and education. They concern issues relating to the use of the language of national minorities in their relations with public administration authorities; the right to set up political parties or organisations for citizens belonging to national minorities and to participate in election processes; and the establishment of public institutions of local interest according to the specifics and needs of cultural affirmation, in compliance with the legal provisions and within the limits of existing financial means. At a purely declarative level, the competencies and powers of local public authorities resulting from the hierarchical and functional distribution of powers from central to local government (Carp & Sienerth, 2014, pp. 1227–1228) create the legal basis for them to take action to respect the rights recognised for national minorities: (a) the right to non-discrimination in the exercise of a legitimate right; (b) the right to use the mother tongue, including the right to use the mother tongue when dealing

with the administration; the right to study the mother tongue; and the right to use the mother tongue in court and in public and private relations; (c) the right to identity; (d) the right to representation in the legislative bodies.

4 Decentralisation and the Practices that Can Be Labelled as NTA

Before discussing the implications of decentralisation for NTA practices, we will offer some clarifications regarding NTA. Originating in late-nineteenth-century and early-twentieth-century Austro-Marxist ideas, NTA is a tool for managing ethnic and religious diversity in situations where the minority communities are not in a compact space. In the twentieth century, the idea evolved and acquired new interpretations, but was based on the decoupling of ethnicities from the territorial organisation of government. In this sense, it is worth remembering the double interpretation of the concept of NTA. First, it can be interpreted as a model that offers the de-territorialisation of minorities' self-determination claims. In this interpretation, elections and minority representation in decision-making processes offer an opportunity for minority groups to be represented at various governance levels, through so-called minority councils (Andeva, 2020, p. 125). Secondly, it can be seen as 'new public management' in the ethno-cultural sphere—a combination of self-government and appropriate allocation of public resources (Coakley, 1994, p. 298). This approach is based on the interpretation of 'autonomy' as a special type of ethnicity-based organisation that combines self-administration with the management of certain public resources and competencies.

In the introduction to this study, it was mentioned that social players' involvement in the implementation of the act of governance, regardless of which sector they belong to—government, the private sector or civil society—is the essential feature of decentralisation. This characteristic derives from the most often invoked way of exercising NTA, namely the creation of officially governed entities that perform official public functions and are established on ethnic or similar grounds (in terms of justification, positions, participants, beneficiaries and others) and are different from the territorial subdivisions of public administration (Osipov, 2020).

The entities concerned must be legal persons registered under public (or, where appropriate, private) law, must have a sufficiently large number of registered members, or at least representatives, relative to the total number of members of that minority, and must designate those bodies which, subject to respect for internal democracy, will make it possible to exercise special powers (Salat, 2006, pp. 42–45). These entities are a way of organising an ethnic group with the aim of guaranteeing and protecting its interests. Such organisations can create conditions for the realisation and protection of cultural as well as political rights.

In Romania there are numerous associations and organisations representing each active national minority in the main areas of social and economic life, all

of which are eligible to receive funds from the state budget in accordance with the law. By dint of their statutory role under national law, they enjoy the right to carry out activities that contribute to the advertising and observance of human rights, in particular those relating to national minorities.

The budget for the activities carried out by a national minority organisation is made up of various financial resources. The analysis of the statutes of the 19 citizens' organisations belonging to national minorities (ONM), where organisations must list their financial resources and how they are set up, reveals some similarities: most organisations have budgets consisting of (a) contributions from the members enrolled in the database; (b) donations or sponsorship; (c) for-profit activities; (d) allocations from state or local budgets; and (e) international funding in accordance with Romanian law.

The allocation of resources from the state budget is carried out through the Department for Interethnic Relations, an institution subordinated to the government. The department organises an annual call for projects for grants to be allocated to intra-ethnic projects or projects aimed at promoting cultural, linguistic and religious identity and the rights of citizens belonging to national minorities, as well as projects dedicated to promoting tolerance and non-discrimination. According to public data (http://www.dri.gov.ro/), in 2016–2020, national minority organisations in Romania benefited from the state budget to the tune of no less than €100 million (see Fig. 1).

When applying for these grants, organisations must take into consideration that these allocations may only cover:

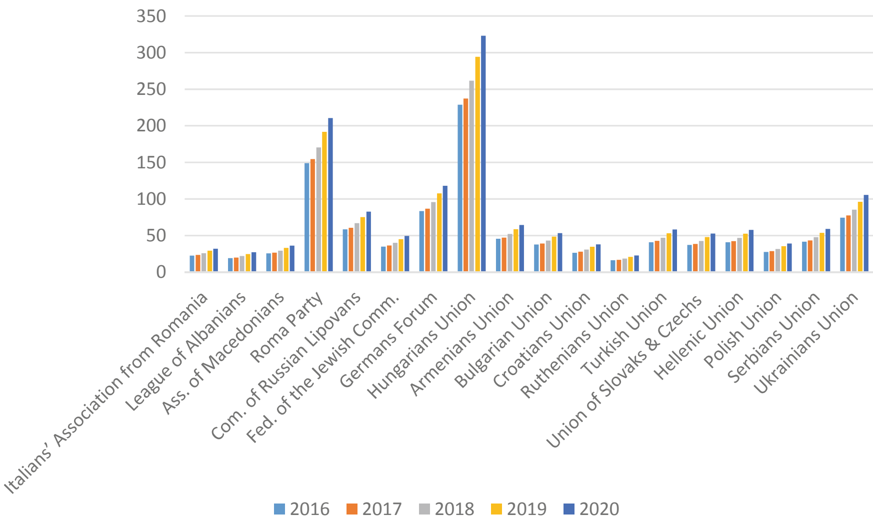

Fig. 1 Government funds for ONM (*y* axis represents the sum in Romanian currency, Thousands) (*Source* http://www.dri.gov.ro/)

a. expenses necessary for the operation of organisations, headquarters and their branches or subsidiaries, cultural and community centres, newsrooms and publishing houses;
b. staff expenses and intellectual property rights;
c. expenses for press, book, school textbooks, publications, information and advertising materials, multimedia materials and radio or TV broadcasts.
d. expenses for organising and participating in cultural, scientific and educational activities, sports, camps, seminars, symposia organised at home and abroad;
e. expenses for investment in movable and immovable property necessary for activities;
f. expenses relating to the co-financing of and participation in programmes and projects supported by national, European and international funds.

Organisations are required to observe the principles of scarcity, efficiency and effectiveness in using the amounts allocated from the state budget. The Department for Interethnic Relations monitors observance of the rules on how funds from the state budget can be used by referring to reports drawn up by the organisations.

The legislation allows associations, foundations and federations to carry out direct economic activities if they are ancillary in nature and closely related to the main purpose of the legal person (Article 48). Each year, the organisations are obliged to declare the amount spent the year before. In this declaration, they have to indicate the amount spent from the state budget and from other sources. These 'other resources' do not have to be broken down, only the total amount representing other sources is mentioned. These sums may consist of membership fees, sponsorship, etc. In conclusion, the minority organisations do not have the legal obligation to publicly detail the amounts received from other sources. So, it could be very hard to establish the amounts of money received from member contributions or—where relevant—from an external kin-state (e.g., Hungary in the case of the Union of Hungarians).

The lack of public reports on the organisations' official websites makes it impossible to assess the type of activities through which the organisations increase their incomes. The size of the membership fees is unknown, and some organisations do not even charge them. The organisations' own sources of income and sources other than the state budget represent a limited share of their budgets. We can therefore observe that, with the exception of the Federation of Jewish Societies, amounts coming from own or other sources represent less than 10% (Fig. 2).

The allocation of funds from the state budget produces significant discrepancies in the principle of fairness. Calculated per capita, the amounts received by the large national minority organisations are much smaller than those allocated to small organisations. Between 1994 and 2008, on average, an ethnic Hungarian received RON 3 per year, an ethnic Roma RON 6 and a German

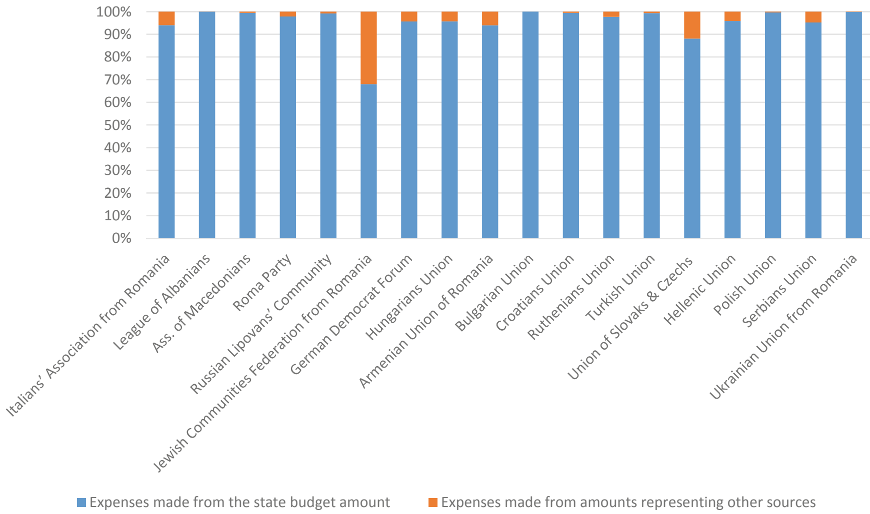

Fig. 2 Proportion of government resources and other resources in the organizations' total income (*Source* Data collected from the annual monitoring sheets in the period 2016–2020, available on https://dri.gov.ro/w/monitorizare/ and government decisions regarding financial support provided by the state under the funding mechanism, published in the *Romanian Official Gazette*)

RON 31. At the other end of the scale there are the small minority organisations. Thus, a Ruthenian was allocated RON 1,794, a Slavic Macedonian RON 947 and an Albanian RON 906 (Mohácsek, 2008, p. 151) (Table 1). Since 2016, the amounts allocated have increased every year (See Table 2).

Analysis of the work of national minority organisations also points to other issues. Minority associations report their expenditure to the Department of Interethnic Relations, but this institution has no control department. Because the money received from the state has increased, some associations have been taken over by interest groups and almost definitely lost their original purpose: to represent the interests of a minority. Data on the services provided (e.g., organising courses for studying the mother tongue) are scarce. There are also associations whose activities do not have a significant impact on the

Table 1 The average amount allocated to a person represented by the organisation for the period 1994–2008 (RON)

	1994–2008
The Hungarian Democratic Union of Romania	3
The 'Pro-Europe' Roma Party Association	6
The Democratic Forum of Germans in Romania	31
The Cultural Union of Ruthenians in Romania	1,794
The Association of the League of Albanians in Romania	906

Table 2 The amount allocated to a person represented by the organisation each year for the period 2016–2020 (RON)

	2016	*2017*	*2018*	*2019*	*2020*
The Hungarian Democratic Union of Romania	19	20	21	23	26
The 'Pro-Europe' Roma Party Association	24	24	27	30	34
The Democratic Forum of Germans in Romania	232	240	265	300	328
The Cultural Union of Ruthenians in Romania	3248	3387	3734	4202	4613
The Association of the League of Albanians in Romania	4698	4890	5392	6134	6660

Note Values for the years 2016–2020 are calculated by the authors based on official data—2011 census and from government decisions regarding financial support provided by the state under the funding mechanism, as published in the *Romanian Official Gazette*

ethnic group despite receiving extensive financial support. Often, financial resources are used for political mobilisation rather than for identity affirmation. The Macedonian minority, for example, consisted of 1,264 people in the last census, but the Macedonian Association still received 5,500 votes in the last parliamentary elections, occupying a seat in parliament. Albanians do not exceed several hundred, but their organisation won more than 4,000 votes (http://www.dri.gov.ro). The headquarters of national minority organisations are situated in localities with small ethnic groups or even without an ethnic community, such as the Romanian Albanian League, headquartered in Craiova. There is no evidence that the 'public goods' produced by the national minority organisations would be more effective from a 'cost–benefit' perspective.

5 Discussion and Conclusions

Administrative decentralisation, one of the forms of decentralisation of power, favours ethnic minorities where they are territorially concentrated but also when they are territorially dispersed. This is because decentralisation offers equal opportunities for large segments of the population to participate directly in governing through both elected and unelected positions, such as through local elections or by closely monitoring the work of administrative structures. In a strictly normative sense, decentralisation provides a favourable framework for the functional approach of NTA in at least two ways: (a) because ethnic groups, even when geographically dispersed, can pursue their interests without substantial interference from the national state, benefiting from financial support; and (b) because the higher level of participation on the part of ethnic minorities, and their voice in the public sphere, are seen as a stabilising force in the process of governing in pluralistic societies.

Romania's decentralisation model allows the development of practices associated with NTA by delegating public roles and competencies to non-governmental agents. The national minority organisations are the best-defined element in this respect.

The allocation of funds to national minority associations based on grant applications may be associated with NTA agreements. The presentation of 'mirror' aspects related to the practical implementation of decentralisation and NTA confirms this thesis:

Decentralisation	*NTA arrangements*
Transfer of responsibility for planning, management, attraction and allocation of resources from the central government and its agencies to: • Regional or functional extended authorities • Private non-governmental or voluntary organisations (Cheema & Rondinelli, 2007) • Marginalised or disadvantaged ethnic groups at the local level (Dunning, 2019, p. 248)	Non-territorial autonomy can be achieved by: • Public–private partnerships • Setting up NGOs that are regularly subsidised using public budgets • The provision of power or regulatory functions to non-governmental organisations in areas such as the provision of educational services, the development of educational and training standards, etc. (Coakley, 1994; Osipov, 2020)

This study also shows that the functional transfer of competencies through decentralisation, as well as compensatory policies as instruments of inclusion that take into account cultural differences, does not in any way exclude representatives of ethnic minorities from actions in the interests of minorities and participation in public life. The problem lies in the paradox of decentralisation. Broadly speaking, the Romanian paradox of decentralisation resides in the fact that a legal framework that acknowledges the powers of local authorities exists but many decisions regarding expenses are taken at a central level. This paradox also affects ethnic issues. The organisations of national minorities have acknowledged their status as being of public utility, but the autonomous subsystems of decision-making and the provision of services that cover the problems of minorities, especially in education and culture, are poorly funded. The organisations' current financing and practices bring them closer to the status and activity of government agencies than to what a non-governmental structure should entail. The capacity of these structures to fulfil their fundamental mission through 'new management mechanisms' is reduced.

Just as local democracy is the motive for the existence of local autonomy, so too could the social and civic activism of the minorities legitimise NTA. Even if it is not a 'magic bullet' (Coakley, 2016, p. 166), the capacity of this institutional arrangement to reduce ethnic tensions might be attractive for decision-makers.

It is important to note that tensions between the majority and minorities are not primarily cultural but rather related to the division of government power and to the boundaries of the political community.

Future research should focus more on the self-organising processes of ethnic groups and how their organisations can be transformed into autonomous decision-making subsystems and the provision of services in education and culture complementary to those provided by public administration. Research, including of an experimental nature, on the conditioning of social assistance would be welcome in this regard.

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Linguistic Rights in Greece: Crossing Through Territorial and Non-Territorial Arrangements

Konstantinos Tsitselikis

1 Introduction

Linguistic diversity is often a critical arena for ethnic rivalries, during the course of which states may seek to assert their authority by a strategy of internal homogenisation. The establishment of state power is frequently associated with the process of elevating one particular language to the status of national or official language, which plays a significant role in the forming of a distinct national ideology. The state enjoys the monopoly on language planning,[1] meaning the adoption of measures on language and education and their implementation through law in a specific territory, on the basis of personal autonomy or non-territorial autonomy. Therefore, the state is also able to intervene decisively in the evolution of minority languages. Language planning measures are partly the result of political and social processes and are often closely associated with a particular claim or demand. Thus the relevant claims and demands are legally invested with a pre-existing linguistic right or tend to crystallise a new legal status. The 'right' must, therefore, be perceived as a variable legal concept, the product of multiple and complex factors.

[1] On language planning as an instrument of ethno-cultural integration, see Anderson (1983).

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Greek law cannot be considered neutral with regard to religious and language education. It safeguards the Greek Orthodox faith and the Greek language, and as an exception may guarantee minority-language rights, which have evolved since the establishment of the Greek state in 1830. The legal protection of the linguistic identity of non-Greek-speaking Greek citizens consists mainly of the establishment of a special education system. In addition to educational rights, the right to use one's mother tongue other than the official language in official contact with the state administration was, and still is, guaranteed to a limited extent.[2]

As Greece's territorial expansion in 1864, 1881, 1913, 1920/1923 and 1947 brought non-Greek-speaking populations within state borders, the attribution ipso jure of Greek citizenship minoritised different linguistic groups, Christians and non-Christians. To reduce minoritisation, Muslims especially were given a certain time period during which they could opt for Ottoman citizenship and leave (in 1881 and 1913).

The assimilatory processes faced by Christians, speakers of languages other than Greek, differed greatly from those faced by Muslims or Jews. Being already half-integrated in the national self-image—owing to their shared religion—Christians found themselves the objects of steady and continuous centripetal homogenising forces: institutional, social and economic. In at least one instance—involving the Slav speakers of Macedonia—the state's linguistic intervention was direct and enforced (Kostopoulos, 2000). Jews and Muslims, on the other hand, were not targeted through ethno-assimilatory processes. They were regarded as a group that was not susceptible to assimilation into the Greek national self-image, and thus they formed the particular target of a language policy based on an entirely different philosophy and aspirations.

2 The Legacy of the Millet Shapes Language Rights

What makes Greece an interesting case for minority studies, territorial and non-territorial minority status, is the survival of elements of the Ottoman millet system[3] that turn religious divisions into political and legal markers. The legal status governing Jews and Muslims in Greece accommodates pre-modern Ottoman elements within the modern schemes that citizenship entails. What I

[2] For the sake of example, by Act 963 of 1882 (Gov. Gazette 38) an interpreter of the Turkish language was appointed in the courts of Larissa, Trikala and Arta, and by Decree of 15 July 1882 (Gov. Gazette 284) an interpreter was appointed to the court of Volos.

[3] The millet system of the late Ottoman Empire (late nineteenth–early twentieth century) accommodated ethno-religious differences (for Greek Orthodox Christians, Armenians and Jews) at different levels and stages. The legacy of millets—NTA-like arrangements—played a key role in the formation of the legal framework dealing with Muslim minorities in the Christian states established after the Ottoman Empire's withdrawal from its Balkan territories, its subsequent collapse and the emergence of the Republic of Turkey in 1923.

call a 'neo-millet' consists of a minority protection system that keeps alive pre-modern legal divisions based on religion and uses them along with modern citizenship. Some of these characteristics have become obsolete with time, such as political representation quotas, community councils and exemptions from military service. Others remain in force under the form of minority rights for the Muslims of Thrace, as is the case with bilingual minority schools, the jurisdiction of muftis on certain family matters and the self-administration of community properties (vakıfs/vakoufia). Jews and Muslims enjoyed a special minority status that evolved gradually after 1830, in 1881, 1913 and 1923 in accordance with Greece's territorial annexations. With time, and due to the modernisation and democratisation of state structures, communitarian elements have been softened, albeit without losing their main institutional and ideological features (Tsitselikis, 2012). The survival of such institutions is not due to a contemporary trend towards legal pluralism, but is the outcome of a convenient inertia resulting from the antagonism between Greece and Turkey.

Minority protection for Christian non-Greek-speaking populations was granted only to a few exceptional cases (e.g. the Vlachs) and was based on international commitments. By the end of World War II (WWII), and with the new approach to human and minority rights, things changed, but the neo-millet protection framework lived on.

Law and policy in Greece in respect to minority languages are subject to pressure from international European organisations, such as the Council of Europe. The trend towards the adoption of certain provisions of international law concerning minority languages represents a hesitant first step towards freeing Greek policy from narrow and 'national interest' orientations. Greece's signing of the Framework Convention for the Protection of National Minorities in 1997 created the opportunity for a new approach to other-language groups. However, in 2022, the Framework Convention is still not ratified by Greece, and neither is the European Charter for Regional or Minority Languages. The Greek government was very reluctant to assist the European Bureau for Lesser-Used Languages (EBLUL), established by the European Parliament in 1982.[4] It seems that Greek governments are more than reluctant to adhere to a uniform and multilateral system of control on language policies dealing with linguistic minorities.

[4] In 2010 EBLUL was replaced by the European Language Equality Network, which gathers together European civil society organisations dealing with minority languages. Mercator, one of the main projects supported by the European Commission, was run by the Catalan CIEMEN (Centre Internacional Escarré per a les Minories Ètniques i les Nacions) and the Frisian Fryske Akademy and offered some research insights on minority languages in Greece.

3 Language Policy for the Reversed Millet: Jews, Muslims and Armenians

The first generation of minority schools was not subject to a uniform legal framework. One could barely speak about minority schools. These were the religion-based schools of the Jewish communities on Chalkida (1833 to Greece) and the Ionian Islands (1864 to Greece). In these schools Hebrew, although not the language of the community, was taught as a core element of the religious identity of the group. At the end of the 1860s, the Jewish school of Chalkida was seconded by the municipal authorities and the government (Baltsiotis, 2022). In Corfu there was also a Jewish school, and most probably there was one in Zakynthos. The first settled protection of linguistic rights was developed under the Treaty of Constantinople in 1881 when Thessaly and Arta were annexed to Greece and 40,000 Muslims acquired Greek citizenship and special minority rights.[5] Despite the policy of tolerance, only 2,895 Muslims remained in Thessaly in 1911, on the eve of the massive territorial upheavals experienced in the Balkans and the withdrawal of the Ottoman administration. In Thessaly the Jewish communities also kept their institutional autonomy, including schools.

In 1882 the Greek state allowed the establishment of Jewish and Muslim schools that would be seconded by public financing.[6] Teaching Greek became obligatory in the Jewish and Muslim schools of the New Territories.[7] Moreover, in any public school attended by more than 20 Jewish pupils, the Hebrew language and religion would be taught by teachers paid by the state.

The annexation of the New Territories in the wake of the Balkan Wars in 1913 turned a significant number of Muslims and Jews into a minority. The language most widely used among the Muslims was Turkish, although Albanian was also widely spoken in Epirus. A series of provisions arising from the Greek-Turkish Convention of 1913 and the relevant domestic legislation safeguarded the linguistic rights of Muslims. Muslim communities were located in Epirus (Ioannina, Konitsa, Paramythia, Margariti, Preveza, etc.), in Macedonia (Thessaloniki, Kavala, Serres, Drama, Kozani, Veria, Florina, etc.), on a number of Aegean Islands (Lesvos, Chios, Limnos) and on Crete. The Muslim communities of Thessaly (Larisa, Volos, Trikala and Karditsa) retained the institutional organisation they had acquired in 1881.

The expulsion of Muslim populations was conducted officially during the Greek-Turkish population exchange of 1923. According to the terms of the Convention of Lausanne (January 1923), all Muslim Greek citizens were compelled to leave Greece, with the exception of the Muslims of Thrace (Ladas, 1932). The Albanian-speaking Muslims mainly located in Epirus were

[5] In his role as a religious judge, the mufti used the Turkish language as the official language of his post.

[6] Act 1013/1882 (Gov. Gazette A' 53).

[7] Act 568/1915 (Gov. Gazette A' 15).

also exempt in 1925. The latter were forced to flee Greece by the guerrilla forces of EDES (National Democratic Greek League) in 1944–1945. Until that time the question of teaching Albanian in Epirus was interrelated with religious freedom, and only in a very fragmented way and to a very limited extent with education for various political reasons (Tsitselikis, 2012, p. 439). Thus the Thracian Muslims were and still are the only officially recognised minority with specific linguistic rights, mainly involving the right to be educated in Turkish.

As already stated, the Jewish communities of Greece (scattered among almost all the cities of Macedonia, Epirus, Thrace, the Ionian Islands and Crete) enjoyed institutional autonomy[8] on the basis of the millet system. Together with community religious institutions, schools became an important field for the promotion of the ethnic identity of each community. The Jews of Greece were split between Greek-speaking (Romaniotes) and Sefarat (Ladino or Judeo-Spanish-speaking) Jews. There were also Italian-speaking and a few Yiddish-speaking Jews. French became a language of the elite for as long as the Alliance Israelite Universelle exerted important cultural-political influence. In 1920 Jewish communities acquired the right to found their own schools.[9] History, geography, physics and maths were to be taught in Greek, along with the Greek language course, by teachers paid by the Greek state. Each community would decide which other language would be taught in their own schools. In practice, in Thessaloniki, Jewish pupils attended three types of schools: Jewish community schools, schools founded by the Alliance (French-oriented) and a series of private foreign schools (French, Italian, American, German). In the schools run by the community and the Alliance, Judeo-Spanish was also taught, along with Hebrew and Greek.[10]

In Thessaloniki, the most important Jewish centre in Greece, there were 12 community schools in the 1930s teaching Hebrew and Ladino. In Thessaloniki, the Alliance Israelite owned 11 elementary schools teaching in French. There were also schools belonging to the Alliance in other cities. For instance, the Alliance established a school for the local community in Xanthi in 1925 (Koutzakiotis, 2008). There were also elementary community schools in Ioannina, Preveza,[11] Florina, Komotini and Alexandroupolis. In some cases community schools were merged with public schools, as in Corfu, where Hebrew and Italian were taught.[12] In other cases, the legal status of the

[8] By Act 2456/1920 (Gov. Gazette A' 173) the Jewish communities (Israilitikes Koinotites) became entities of public law. This was amended by Act 4837/1930 and again by Act 367/1945 (Gov. Gazette A' 143).

[9] Act 2456/1920, Gov. Gazette A' 173.

[10] General Archives of the State, Archives of Macedonia, Report on the operation of Israelite and foreigner schools of Thessaloniki, 10.7.1929.

[11] League of Nations, *Official Journal*, April 1925, Annex 755a, "Protection of the Bulgarian minority in Greece".

[12] Central Israelite Council, *The community of Corfu*, https://kis.gr/index.php?option=com_content&view=category&id=43&layout=blog&Itemid=56 Retrieved on 23 February

schools changed through time: in Ioannina, for instance, the Jewish school was run by the Alliance until 1915, then it was seconded directly by the Greek government and from 1932 until 1942 it became a Jewish community school (Frezis, 2010). In 1928 there were 83,000 Jewish Greek citizens, 75,477 in 1941 and 10,026 after the Holocaust. Approximately 3,600 emigrated to Palestine or elsewhere in 1945–1950.[13]

In the post-WWII period, Jewish pupils in Athens attended three elementary public schools,[14] where they received religious education and Hebrew lessons.[15] It was only in 1960 that the community elementary school was established in Athens, and in 1979 in Thessaloniki. There was one more elementary school, located in Larisa (the 8th elementary school of Larisa), which operated from 1931 until 2017 as a public Jewish school; it closed down because it had a very limited number of pupils.

The Armenian communities, although Christian, were seen as fitting into the millet-like scheme. After all, Armenians in Ottoman times enjoyed millet-like institutional autonomy. Until the 1950s they were considered to be a foreign and enemy element, having close ties to Bulgaria.[16] In other words, they were seen as a non-autochthonous and non-Orthodox Christian minority that would stay temporarily. Under this percept, Greek authorities were at ease with millet-like minority policies comprising Armenians.

Fourteen elementary schools were teaching the Armenian language before WWII (in Thrace, Thessaloniki, Athens and Piraeus), but only four remained operational after 1947 due to intense emigration to Soviet Armenia.[17] In 1952 there were 14,500 Armenians in Greece (8,000 of whom were of unidentified citizenship). By the mid-1980s the state authorities supported the Armenian school of Athens by seconding public teachers.[18] As of 2022 only one elementary school operates in Athens (Blue Cross, Kyanous Stavros).

2022. In 1924, the 3d Public School is established for the Jews of Corfu (Gov. Gazette A 294).

[13] General Archives of the State (Kavala/Athens) F. 95.b. “Report on the Israelites living in Greece, General Directorate on Aliens”, Ministry of Interior, May 1952.

[14] The 16th, 18th and 79th Israelite elementary schools of Athens located in Thiseio/Petralona.

[15] By the Ministerial Decision No 25153/1957 (Gov. Gazette B’ 86) with reference to Legislative Decree 3379/1955 (Gov. Gazette A’ 260) there were established 16 posts for teachers of non-Greek Orthodox dogma (14 for Catholics [: 13 in the Cyclades and one in Athens) and two for Jews (one at the 81st Elementary school of Athens and one for the 8th elementary school of Larisa). By Acts 3194/2003, 3577/2007 and 4071/2012 teachers are posted and seconded by the state to teach in community schools. The schools of the Armenian community of Athens and the Jewish communities of Athens and Thessaloniki are still seconded by the state (Art. 33, Act 4415/2016, Gov. Gazette A 159).

[16] General Archives of the State (Kavala/Athens), F. 95.b. “Report on the Armenians living in Greece, General Directorate on Aliens”, Ministry of Interior, March 1952.

[17] General Archives of the State, (Kavala/Athens) F. 95.b. “Report on the Armenians living in Greece, General Directorate on Aliens”, Ministry of Interior, March 1952.

[18] Act 1674/1986, Act 2413/1996, Act 4071/2012, Act 4415/2016.

4 Education Rights for Muslims

The linguistic landscape of Greece in respect to Muslim Greek citizens is mainly the product of the exemption of the Muslims of Thrace from the enforced population exchange of 1923. The main language of the Muslims of Thrace is Turkish, followed by Bulgarian (Pomak) and, to a very limited extent, Romani.

Turkish is used by almost all members of the minority of Thrace, by the ethnic Turks and almost all Pomaks and Gypsies (Roma). Bulgarian (Pomak) is used mainly by the Pomaks of the prefecture of Xanthi and to a lesser extent of the prefectures of Rhodope and Evros. Romani is also used to a limited extent. Outside Thrace, Greek Muslim citizens live in the Dodecanese, mainly in Rhodes and Kos, where there are a very small number of Turkish-speaking communities. Turkish-speaking Muslims, Greek citizens, live in Athens, Thiva, Thessaloniki and elsewhere, as a result of internal migration from Thrace.

As mentioned, the Treaty of Lausanne forms the cornerstone of the system that has, to date, provided special rights for the Muslims of Thrace. Its provisions in respect to language mainly involve the granting of educational rights. To a much lesser extent they provide for the possibility of interpretation into Turkish in court and at polling stations. The decision to use a religious criterion for granting special education rights has strong ideological foundations. The Treaty of Lausanne may attribute linguistic rights on the basis of religion, but it does not rule out the existence or recognition of the linguistic, ethnic or national identity of the members of the minority. After all, the ideological and political circumstances in which the relevant provisions were drafted in 1923 no longer correspond to present-day conditions.

The Treaty of Lausanne, although it does not provide any geographical limitations, has been interpreted in such a way that Muslims outside Thrace cannot enjoy special rights.[19] From 1947, in Rhodes and Kos, Muslim pupils who attended public schools were granted religious and language courses (in Turkish). In the context of the Greek-Turkish negative reciprocity in the early 1970s, this option was withdrawn.[20]

Moreover, the Treaty does not identify the specific language of the linguistic rights it provides.[21] However, the relevant educational laws have established

[19] The question was discussed as soon as the Dodecanese Islands were annexed to Greece (1947). The Supreme Court (Areios Pagos) held that the Muslims of Rhodes and Kos were not subject to the Treaty of Lausanne. Areios Pagos judgement 63/1954, *Themis* 1954, p. 241.

[20] In 1947 there were around 1,000 Muslim students on Rhodes and Kos; by 1952 this figure fell to 750 students in a total of eight schools. General Archives of the State, Kavala F.92.iii. Papaevgeniou, report on the Muslim schools of the Dodecanese, 19.6.1952, Ministry of Education, Primary Education Directorate, to Ministry of Foreign Affairs, 22.3.1955.

[21] Article 41, section i, reads as follows: ‘In the towns and regions where there is a significant proportion of [non-] Muslim subjects, the [Greek] government shall provide,

that the language of teaching should be Turkish (as well as Greek), which is the mother tongue of most members of the minority, and their lingua franca.

In the minority schools half of the lessons in the timetable are taught in Greek by a teacher who has to be Christian and who is demonstrably a Greek speaker; the other half are taught in Turkish by a Muslim teacher, according to the legal definition. The latter is deemed to be, through religion, Turkish-speaking. There are 103 primary schools for 3,759 pupils where 240 Christian and 299 Muslim teachers are employed (as of 2022) (Office of Minority Schools, 2021). Student numbers have been falling steadily over recent years (from 9,829 in 1990) (Abdurrahman & Huseyinoglu, 2014; Tsitselikis & Mavrommatis, 2019), in line with the overall demographic decline in minority numbers, but also owing to the ever-increasing attendance of public schools by minority students (approximately 1,500 pupils attend public monolingual Greek elementary schools, as of 2022) (Office of Minority Schools, 2021). There are also two middle-high minority schools and another two middle-high schools with a religious orientation (ierospoudastiria). All minority schools are bilingual, in Greek and Turkish, and all are located in Thrace.

One of the major questions was whether Muslims would be entitled to special educational rights. In a case adjudicated by the high administrative court, the ruling was based on consideration of the biological 'origin' of the plaintiff. In the case the court ruled that a provision regarding quotas[22] for entering third-level education was relevant only for Muslims (Greek citizens) descended from those exempted from the population exchange of 1923, such as the Muslim inhabitants of Western Thrace after 1923. In the case, a Muslim of Greek citizenship and resident of Alexandroupolis (Thrace) was denied the right to use this special quota as 'he was not descended from the Muslims of Thrace'. He was the son of a Greek woman from Thessaloniki who converted to Islam and a Jordanian immigrant.[23]

Greece's language policy towards the minority in Thrace can be seen as part of its broader treatment of Muslims as a neo-millet, often as an exception to the norm founded on the rule of law. This exception stems from the arrangement in the Treaty of Lausanne, according to which attribution of language rights is related to religious identification within direct territorial limitations. Yet the minority itself also constructs its internal cohesion, structures and ideologies through similar approaches. Thus the fostering of the idea of the community as a millet is reinforced and maintained not only by Greek law but by the minority itself (Tsitselikis, 2012) in a continuing and interdependent relationship.

If language policy in Thrace has evolved slowly in the field of education, there are certain language rights in which it has made absolutely no progress

in the field of state education, the appropriate arrangements to ensure that the children of these [Greek] subjects are taught at primary school in their own language'.

[22] The special quota for Muslim students was initially set by Act 2341/1995.

[23] High Administrative Court (*Symvoulio tis Epikrateias*) judgement 290/2002.

at all. Yet these rights would have compromised what Bourdieu calls the 'symbolic power'(Bourdieu, 1991, p. 170) of the official Greek language, rather than representing any real burden on the Greek state or local authorities: these rights involve the posting of municipal notices in both languages (the official and the minority language), the adoption of place names in the minority language together with the official language and the possibility of using the minority language in the public's dealings with the local authority or the public sector (through the distribution of bilingual forms, applications, etc.).

5 Language Policies and Law for Non-Greek-Speaking Christians

All Vlach-, Slav- and Arvanitika (Albanian)-speaking, Greek Orthodox, Greek citizens have been gradually assimilated into Greek-speaking society over three or four generations. In most cases, this language shift has happened through social dynamics, according to which social stigmatisation for non-Greek speakers was the main driver for alignment with the mainstream. In some cases, such as in the 1950s, harsh measures targeted the Slav (Bulgarian/Macedonian) speakers of Macedonia. As a norm, no special measures have been taken for the promotion of these languages, with two exceptions.

The Vlach language was officially recognised with no territorial limitation by a special protocol annexed to the Treaty of Bucharest, which put an end to the Balkan Wars in 1913. The implementation of the religious and educational autonomy of the Vlachs was assigned to the Romanian state. A similar provision attributed special rights for the Vlachs in the Treaty of Sèvres on minorities in Greece (signed in 1920, ratified in 1923). In 1925 there were 23 elementary schools and two middle schools (in Ioannina and Grevena) and one commercial school in Thessaloniki.[24] Some of these schools had already been established during the Ottoman era; others were established for the implementation of the Greek-Romanian protocol. The parallel operation of Greek and Romanian schools for the Vlachs in numerous villages created tensions and clientelistic relations with political and national effects. In 1940, just before the outbreak of WWII, there were 24 elementary schools (827 pupils), six summer schools (265) and three middle schools (470 pupils). In 1944–1945 only eight Romanian schools were operational (553 students).[25] Many more Vlachs opted to attend the public Greek schools. The minority Vlach schools closed down as soon as a communist government was established in Romania, and the Greek government was released from her obligations as soon as the Cold War commenced.

[24] Historical Archive of the Greek MFA, 1925, B/37, 6. Letter Kaklamanos to League of Nations, 12.3.1925.

[25] Archive of Filippos Dragoumis, F. 104.2, doc. 47, "Table showing the Vlach (Romanian) schools in Macedonia and Epirus" (1945?).

The attempt to open schools for Slav-speaking Greek citizens and to introduce their language into education failed in the mid-1920s, after the Greek-Bulgarian population exchange had taken place (Ladas, 1932). In order to comply with her minority obligations according to the Treaty of Sèvres on minorities in Greece (1920/1923), in September 1924 Greece signed an agreement with Bulgaria on reciprocal minorities. The Politis–Kalfoff Protocol was denied by the Greek parliament and faced strong reactions from Serbia within the League of Nations. In 1925 the Greek government published a textbook, the notorious *Abecedar*, in the Latin alphabet, which was tried in the field as a pilot project and definitively failed. Consequently, the language whose name became a core issue of disagreement for decades (Michailidis, 1999) was left aside unmanaged.

6 Language Policies for Immigrant Communities

In the environment that took shape following the geopolitical upheavals in the period after 1991, Greece has become a destination for immigrants and refugees from the Balkans, the Middle East, the Indian subcontinent and Africa. If religious freedom has been accommodated—though with obstacles—language claims for the establishment of special courses with the assistance of the state are very rare, if not non-existent.

The greatest current challenge in the attempt to secure the coexistence of different language groups is presented by the numerous communities of immigrants, Muslims and Christians who are all foreign speakers. In urban centres linguistic coexistence involves particularly high levels of diversity, owing to the settlement of Muslim immigrants (Tsitselikis & Mavrommatis, 2019).

The increased need for social inclusion has led to the adoption of the intercultural school as a means of managing immigrants' linguistic alterity. Intercultural education was established by four provisions of Act 2413/1996, which finally failed to regulate linguistic coexistence. Intercultural schools do not seek to provide teaching in the mother tongue of the foreign-speaking pupils, even as a language lesson. Instead they aim at the pupils' (linguistic) immersion into Greek. However, the law was amended[26] in order to allow the teaching of a language other than Greek upon ministerial decision, which to date has not been adopted and therefore not implemented. It seems that concerns other than the 'best interest of the child' prevail, which are oriented instead towards making Greek the only language of education, suppressing prospects for mother tongues other than Greek to be taught in state schools.

In only a few cases, sporadically and not sustainably, Albanian communities manage to offer Albanian courses within school premises, in extracurricular time (like in the 132nd elementary school of Athens in 2006). As conceived

[26] Act 4251/2014 (Gov. Gazette A 80), Art. 21.9, Act 4415/2016 (Gov. Gazette A 159), Art. 20–26.

by the existing legal framework, intercultural schools have no territorial limitations.

Intercultural schools could be compared to the minority schools of Thrace, as far as Muslim non-Greek-speaking pupils are concerned.[27] The same phenomenon (i.e. Muslim students speaking another language) is tackled in two starkly different but equally ineffectual ways. The distinction between minority and intercultural schools is contradictory, as is the use of the criterion of religion or nationality for inclusion in one or another type of school. It is evident that we need to redefine the objectives of both intercultural and minority schools and to adopt solutions that will meet the linguistic needs of the students above and beyond the formal criteria of religion, nationality or place of residence. The paradox is demonstrated by the example of a Muslim living outside Thrace: as an inhabitant of Thrace they are automatically registered at a minority school, but when they live outside this region they have to join the normal public school and are thus deprived of the right to be taught in their mother tongue. Finally, the approach to other-language immigrants must be based on an initial recognition of their cultural difference. A policy that seeks only to safeguard rights is pointless if not associated with social integration and social benefits, which can and should accrue to other-language immigrants.

7 Conclusions

Linguistic 'otherness' is the subject, to a greater or lesser degree, of regulatory measures and political debate and recriminations; it is also a vehicle for political and ideological conflict. What is required is not merely a state of mandatory statutory protection or the suppression of linguistic 'otherness'. On the contrary, the objective should be the statutory safeguarding of an environment in which linguistic development can continue unhampered, with languages shifting or contracting in use in accordance with social dynamics, in respect to the existence of the 'other'. In Greece, the management of language otherness has been associated with a stigmatisation of ethnic difference, based on hegemonic terms (Christidis, 1999, p. 173).[28]

Since 1881 and 1913, when Greece significantly increased her territory, minority protection has come under the spotlight of international consideration and guarantees. Over the past 150 years, language rights, among other minority rights, have been either reluctantly granted or ignored. Although minority languages have been treated asymmetrically and incoherently, a pattern seems to have emerged: minority languages spoken by

[27] There is also one elementary school in Iasmos and one in Sapes, and one gymnasium-lyceum in Sapes. Pupils from the Muslim minority also attend these schools, but no special language courses are offered.

[28] According to, 'in the end it is not language—whether a single or multiple languages—which divides or unites; it is ideas' (Christidis, 1999, p. 162).

Christians (Vlach, Slavic languages, Arvanitika) have been subject to assimilation dynamics, whereas minority languages spoken by non-Greek speakers of non-Greek Orthodox religion (Muslims, Jews, Armenians) have enjoyed language rights, with or without territorial criteria. This trend was shaped by international political influences and legal regulations through a very narrow perspective that actually screened out any attempt at establishing non-territorial arrangements.

It seems a paradox that in a predominantly Christian country language stigmatisation has targeted Christian non-Greek speakers, rather than non-Christian non-Greek speakers. According to prevailing policies and ideological percepts, the former should be assimilated and the latter should not be assimilated. Territoriality and non-territoriality were used according to the political context as a tool to reduce or control language otherness. The main challenge for the future lies in the area of bridging minority and intercultural education, and the prospect of aligning the relevant legal framework with the provisions of international law already laid down on the European level.

Today, only one minority language enjoys a full set of special rights (mostly in the field of education), namely the Turkish spoken by the Muslims of Thrace. Also, Jewish and Armenian community schools offer language courses to a minimal extent.

On the other hand, migratory flows after 1990—primarily from Albania, the former USSR and the Middle East—have brought up the question of multiculturalism, language contact and language management once again. However, the Greek government is reluctant to introduce special language rights for immigrants and refugees. As Greece refrains from adhering to the main European legal instruments on minority rights, the one and only protection mechanism granting linguistic rights remains the Treaty of Lausanne, although the implementation of the Treaty is today limited to a specific minority language within a specific region. The legal protection of linguistic otherness in Greece was historically fragmented and ambivalent, ranking from absolute invisibility to NTA and strict institutional territoriality.

Annexes

1. Timeline: Implemented minority education rights in Greece

	1881	1913	1920 /1923	1925	1941–1944	1945/ 1947	1971	1991	2022
Turkish/ Muslims Thessaly									
Turkish /Muslims New Terrirories									
Turkish/ Muslims Thrace									
Turkish/Muslims Dodecanese									
Macedo-Slav				Failed					
Jewish communities Thessaly									2017
Jewish communities New Lands									
Armenian communities									
Albanian Muslims Epirus									
Vlach									
Immigrant communities								Sporadic by communities	Sporadic by communities

2. Minority languages (mother tongue), Greek citizens only[29]

Population census	*1928*	*1940*	*1951*	*2022*[30]	*Comments*
Turkish [Christians]	104,710	222,968	87,583	4,000 [1]	[1] Gagauz and refugees from Georgia

(continued)

[29] Sources: National Statists Services, population census of 1928, 1940, 1951; Papaevgeniou (1946), Greek Office of Information (1949). However, data on minority affiliation are of contested reliability (Kostopoulos, 2003).

[30] Rough estimates based on personal analysis from a series of sources.

(continued)

Population census	*1928*	*1940*	*1951*	*2022*	*Comments*
Turkish [Muslims]	86,506		92,219	100,000	
Bulgarian/ Pomak [Muslims]	16,755	15,846	18,667	13,000 [2]	[2] Most likely together with Turkish
Bulgarian [Christians]	25				
Macedo-Slav/Slavic	81,924	81,860	41,011	50,000 [3]	[3] Most likely as a second language after Greek
Armenian	33,634	26,827	8,990	20,000	
Albanian	167 (Christians) 18,598 (Muslims)	33,300 (Christians) 16,330 (Muslims)	22,207 (Christians) 487 (Muslims)	50,000 [4]	[4] For about 20,000 as a second language after Greek. Predominant language for Albanian immigrants who acquired Greek citizenship
Vlach	19,703	57,263	39,855	25,000 [5]	[5] Most likely as a second language after Greek
Romanian		2,901	2,082		
Romani	3,853 (Christians) 1,145 (Muslims)	8,141	7,429	80,000 [6]	[6] Mostly Christians, including approx. 5,000 Muslims
Spanish/Ladino [Jews]	62,999	53,094	751	–	

(continued)

(continued)

Population census	*1928*	*1940*	*1951*	*2022*	*Comments*
Hebrew [Yiddish, unconfirmed] [Jews]			8,531 [7]	–	[7] Most likely based on ethnic affiliation. Hebrew was not used at all in everyday life
Russian	3,295	8,096	3,815	50,000 [8]	[8] Naturalised Greeks coming from former USSR countries
Other	6,000	24,480	11,500	?	

Note ? = unconfirmed

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Critical Analysis of the Linguistic Rights Strategies of the Hungarian National Minority Council in Serbia

Katinka Beretka

1 Introduction

National minority councils in Serbia are *organisations*[1] entrusted by law with certain public authorisations to participate in decision-making or to decide independently on issues in the field of culture, education, information and official use of language and script (Law on National Councils of National Minorities, art. 1a, para. 1). Although the Law on National Councils of National Minorities sets general rules on the elections, functioning and financing that should be applied equally to all 22 national minority councils in Serbia,[2] there are definite differences among national minorities themselves and their councils, depending on both internal and external factors that (might) justify their various performances in practice. Besides their political position in the state's institutional framework, their relationship with public

[1] The national minority councils are *sui generis* bodies in Serbia, without an exact place in the vertical separation of powers. For the legal status of the NTA in Serbia, see Beretka (2020).

[2] According to the law, the Executive Board of the Federation of Jewish Municipalities in Serbia performs the function of a national council. For the list of the national minority councils in Serbia, see the official website of the Ministry of Human and Minority Rights, and Social Dialogue.

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authorities (the ultimate decision-makers in minority issues in Serbia) and the general political and social climate in the country (external factors), the functioning, success and effectiveness of the national minority councils are also heavily dependent on various internal factors (Đorđević-Vidojković, 2021, pp. 224–225). These include the level of their organisation, their approach to future plans and whether they think and act in a coordinated manner, instead of simply reacting ad hoc. This raises the question of whether national minority councils need to adopt a strategic approach to their activity in general, and if yes, whether they are ready to draft their own strategic plans.

This paper aims to answer these questions by presenting, comparing and evaluating the main parts of the HNMC's two strategies for official use of the Hungarian language and script. This is seen in the context of preserving the Hungarian language in official use in Serbia by a body of non-territorial autonomy (NTA), in order to establish a set of conclusive principles that might also be relied on by other national minority councils in their strategic language planning. For the sake of simplifying the text, the two documents are referred to as linguistic rights strategies even though their main focus (especially within the first document) is on only one aspect of the minority-language rights: use of minority language in various forms of so-called *official* communication.

2 The Importance and the Uniqueness of the HNMC's Linguistic Rights Strategies

Notwithstanding its size; political history; developed, diversified, enduring institutional regime; support from the kin-state and strong political representation at almost each level of governance, the Hungarian minority has also been shown to be the first among the national communities in Serbia to recognise the importance of strategic planning. As Prof. Korhecz, the president of the HNMC in the period 2010–2014, said: 'Professional strategic planning is one of the fundamentals of effective and successful policy making and good governance generally. It is a tool, by and upon which problems might be systematically resolved, and public interest protected' (Korhecz, 2014, p. 157). Although it was not a legal obligation, during its first mandate—according to the first democratic elections (2010–2014)—the HNMC adopted eight mid-term development strategies covering almost each area of public life of Hungarians living in Serbia: education, including nursery and university education (2010–2016), culture (2012–2018), information/media (2011–2016), official use of language (2012–2017), NGO and civic engagement (2012–2018), adult education and life-long learning (2012–2017), family support (demography) (2013–2017) and science (2014–2020).[3] As the then president and the members of the council summed up the first four years in the final report on the HNMC's activity, the goal was to enable more efficient use of resources and turn the social reality in a positive direction in order to elicit

[3] For the list of the strategies (on Hungarian), see the official website of the HNMC.

greater public interest and move the reality closer to the generally accepted values and goals (Várkonyi & Kókai, 2014, p. 25).

As the economic strength of a community is equally important, the Alliance of Vojvodina Hungarians (*Vajdasági Magyar Szövetség*), together with various economic operators and experts, prepared the *Territorial and Economic Development Strategy of the Vojvodina Hungarian Communities* in 2015, aimed at promoting improvement and growth of Hungarian enterprises in Vojvodina, especially in the fields of agriculture, tourism and other knowledge-based economic sectors, such as electrical and electronic, vehicle and mechanical engineering (Nagy et al., 2015). Although the HNMC was not directly involved in elaborating this strategy, the (governing) majority of the council members has always been on the list supported by the Alliance of Vojvodina Hungarians since the very first democratic elections (and even before 2010 when the HNMC was elected through an electoral assembly).

Following the annulment of many provisions of the Law on National Councils of National Minorities by the Constitutional Court of Serbia in 2014, the councils' room for manoeuvre has been significantly reduced. The Courts found, among other things, that the Serbian constitution-maker determined the areas that were important for the preservation of the identity of every national minority. These areas are listed in the provision of Article 75, Paragraph 2 of the Constitution of the Republic of Serbia (in particular, culture, education, information and official use of language and script), and thus the field of action of national minority councils cannot go beyond the framework of the guaranteed collective rights established by the Constitution. In other words, they cannot act in other areas of social life (Constitutional Court of Serbia, 2014). As a direct consequence of this Constitutional Court decision, and due to the changed composition of the second mandate (2014–2018),[4] the HNMC integrated its programmes of adult education, science and civic strategy into the four main, remaining strategic areas (education, culture, information and official use of language), where this was relevant and possible, and entrusted the implementation of the demographic strategy to a non-governmental organisation (HNMC, 2017, pp. 6–7). In the meantime, the legal environment has changed, and Serbia has also adopted its national strategic documents in the fields of culture, education and the media, to which the HNMC has adapted. The HNMC later revised its strategy on education and on the official use of the Hungarian language (called, for the purposes of this paper, the *second* Linguistic Rights Strategy).

The question may rightly arise as to why the Linguistic Rights Strategy is the subject of this study, as all of HNMC's strategies could be seen as meriting

[4] In 2014, a new president was elected, a large percentage of the membership was replaced and a new executive board was formed. Although the list supported by the Alliance of Vojvodina Hungarians still provided the majority of council members, the council's operating principles and priorities have changed in political terms. This was partly a result of the new legal background and partly a consequence of internal conflicts within the party.

deeper analysis. The answer is complex, regardless of the personal interest of the author.

First, the Law on National Councils of National Minorities does not regulate the duty of national minority councils to adopt a Linguistic Rights Strategy. This was done entirely on the initiative of the HNMC itself. However, the idea of strategy-making is no stranger to the Law. The Law requires national minority councils to create a strategy to develop the culture of the given ethnic group (art. 18, para. 2), and to adopt a strategy for improving information broadcast in the language of the given national minority, in accordance with the media strategy of the Republic of Serbia (art. 21, para. 1). The Law does not contain any sanctions in the case of non-implementation of these provisions by the councils. It is rather a suggestion to help them carry out their competencies in a more coordinated way, as has also been emphasised by the National Ombudsman of Serbia: 'Council strategies are of great importance, and they indicate that these bodies design their activities for preservation and nurturing both traditional and contemporary cultural creation in a planned and systematic way' (Protector of Citizens, 2019, p. 20). However, only a small number of councils define their work in a strategic way. In their replies to the Ombudsman's questionnaire, the Albanian, the Vlach, the Macedonian, the Slovenian, the Croatian, the Hungarian and the Ukrainian councils claimed to have devised a special strategy for developing national minority culture for the period 2014–2018, yet the Bosnian and the Ruthenian councils developed a comprehensive strategy for all four areas. In the field of minority information, only six minority councils had their own strategy in the mentioned period: the Albanians, the Hungarians, the Bunjevacs, the Slovenians, the Macedonians, and the Ukrainians (Protector of Citizens, 2019, pp. 20, 26).

The Ombudsman's above-mentioned questionnaire did not cover the language strategies specifically, as it is not a special duty prescribed by the Law. As was previously mentioned, the Bosnian and the Ruthenian councils adopted comprehensive strategies; but almost every council has an annual work plan in which they are free to determine their fields of action, including the sphere of official use of their mother tongue. For a long time, the HNMC was the only council with its own Linguistic Rights Strategy that served as an exemplar for the others; but finally, in 2021 the Croatian National Minority Council adopted its Linguistic Rights Strategy as well. Without presenting and analysing this strategy, it is important to note that it places much more emphasis on situation assessment and presentation of rights and obligations than on strategic planning itself (Croatian National Minority Council, 2021, pp. 114–118).

Second, Serbia does not have its own language strategy, even though the (official) use of both Serbian and minority languages is subject to numerous laws in the country. There are national strategies on education, information and culture, but from the perspective of the official use of minority languages, the national strategies on the judiciary, public administration and

e-governance are much more interesting. However, none of them contains explicit programmes to improve the language rights of minorities in official use. The Public Administration Reform Strategy in the Republic of Serbia for the Period from 2021 to 2030 says that the focus of the reforms is to create a flexible public administration that 'provides integrated user-oriented services in a short period of time, at reasonable cost, especially taking into account *minority and vulnerable social groups*'. But what this special strategic goal means is not concretised through any of its programmes, especially regarding the possible ways in which the public administration on minority languages should function. In this aspect, the HNMC's Linguistic Rights Strategy is a pioneer not only among minorities but at a national level.

Third, the HNMC's Linguistic Rights Strategy preceded even the adoption of the Hungarian (kin-state) national language strategy. For a long time, Hungary itself has been trying to create its own language strategy, which would include a separate sub-strategy (or several) for the Hungarian-inhabited areas of the Carpathian Basin (Péntek, 2012, pp. 15–16). The HNMC's strategy-making fits in well with this plan. In addition to setting an example for Hungarian communities living in neighbouring states, it actually summarises all the problems and solutions that are common in official use of minority languages, despite the different national laws (Eöry, 2021, pp. 18–20). The national language strategy is still at draft level and its content is not public. However, based on preparatory workshops, it became clear that the Hungarian (kin-state) language strategy approaches language strategic planning in a complex way, examining the language in its function, its role in social life and treating it as a part of culture; in other words, it 'interprets the language and the community that speaks it in a socio-cultural context' (Tolcsvai, 2017, p. 489). Although a different approach is required when considering the use of Hungarian as a minority language rather than the language of the Hungarian nation-state, the HNMC's second Linguistic Rights Strategy adopts a similar method: as well as covering the classic fields of official communication between citizens and the state, its programmes attempt to ensure the presence of the Hungarian language in all areas of public life, thereby creating an ideal environment for its widespread use (HNMC, 2021, p. 7). In this form and with this concept, the strategy undoubtedly approaches both the problem of official language use and the proposed solutions in a broader context than its predecessor.

And finally, in general, a strategic response to minority issues has recently become increasingly important in the country. Serbia was the first candidate in the history of European integration that was required during the negotiation process to adopt a special action plan on the realisation of the rights of national minorities, in order to set its strategic orientation towards improving the institutional and legislative framework in the field of minority rights and freedoms (Government of the Republic of Serbia, 2016). This medium-term strategic plan was indeed necessary given that Serbia was constantly criticised for its lack of a systemic approach towards national minorities, as 'reflected

primarily in the absence of a strategic document that would determine the basic principles and principles of minority policy and defined the roles of many actors at all levels of government who deal with this topic within their own competencies' (Marković & Pavlović, 2019, p. 91). This does not mean that no minority strategic plans have been drafted before, but they have usually been drawn up by independent expert groups, separate from the national minority councils, rather than the state. For example, the Strategy Platform for Integration of National Minorities in the Republic of Serbia was designed to respond to 'requests in areas of minority politics [having] come from the political, economic, legal, technical-infrastructural, cultural and social environment' (Forum for Ethnic Relations, 2016, p. 2). However, for the present study, it is important to note that this document did not specifically address minority-language rights in official use.

The contents of Chapter 5 on the use of minority language and script (Government of the Republic of Serbia, 2016), are more or less in line with the HNMC's strategic objectives in the field of official language use, even though the action plan takes into account and unifies the needs and potential of all minority groups in Serbia: those whose language is in official use in many municipalities across the country, and those whose language is not even taught in schools, or who do not have a standardised language, or who have only a spoken version of their mother tongue. For this reason, the action plan prefers general programmes with minimum requirements.

In view of all these circumstances, the HNMC language planning policy is unique both within and outside Serbia's borders and merits in-depth analysis in all respects. This will be carried out in the following sections.

3 The First Hungarian Linguistic Rights Strategy (2012–2017)

Both of the HNMC's linguistic rights strategies were elaborated by a narrower group of experts (lawyers, linguists, officials in public administration and judiciary, translators), supported by the members of the council's committee for official use of language and script.[5] Once the draft was completed, a public debate was held in which literally anyone could have their say. Before its adoption by the HNMC in 2011, the final version was presented at a closing conference. The policy of the council was to include all comments, critical views and proposals in the text, thus supporting the position towards the uniform use of the Hungarian language in official communication. This attitude was also observed when the second strategy was adopted ten years later, in 2021 (this statement is supported by comparing the draft version and the final version published after the public debate).

[5] For the composition and authorisations of the committees for education, culture, information and official use of language, see the Law on National Councils of National Minorities, art. 7, para. 8.

The first Linguistic Rights Strategy adhered to the classic structure of strategies: the situation assessment was followed by the strategic goals and programmes, with an implementation timetable at the end. Sources of financing, responsible agents and supervision were subject to separate HNMC decisions.

Serbia belongs to the group of states that limits the official use of (minority) languages primarily to the use of language *by public authorities*; therefore it does not consider language use in media, education, health and social care, or business to be part of *official* communication (Korhecz, 2009). The only exceptions are visual use of the language in some cases (e.g. issuing certificates, keeping records, inscriptions and signs in minority language). The legal determination of the official use of languages also defines the structure for the content of the strategy, and the first Linguistic Rights Strategy did not really move away from this framework.

In accordance with Serbian laws, the Hungarian language is in *equal* official use with the Serbian language in the entire territory of 28 local self-governments and in a further 11 settlements (in five more local self-government units) (Provincial Secretariat for Education, Regulations, Administration and National Minorities—National Communities, 2021). However, for the official status to be more than a provision in the statute of a municipality, Hungarian-speaking clients, lawyers, prosecutors, registrars and officials are required, as well as a supportive legal environment and the necessary technical and, of course, material conditions. This was true when the strategy was adopted in 2011, but it is more or less the same today.

In addition to official statistics, the strategy relied on reports of the competent secretary of the Autonomous Province of Vojvodina examining the use of minority languages, such as Hungarian in offices and courts, in various titles and in written and oral communication. Thus, the drafters got a realistic picture—although not a complete one. Furthermore, the strategy contained a separate subchapter on legislative tendencies in the field of official use of minority languages.

In 2011 the following conclusions were made: (1) the relevant legal background was contradictory in content, divergent in enforcement and lacking enforcing, controlling and implementing provisions; (2) additional costs of multilingualism and specific needs were not adequately taken into consideration by central management (e.g. the judiciary or local municipalities usually gave priority to other issues, due to their limited financial resources); (3) instead of language-rational internal organisation (job schedule in accordance with the language knowledge of employees) and proportional employment of minority-language speakers, the dominance of purely Serbian-speaking employees was typical in certain public bodies; (4) as most laws and regulations were not translated into official minority languages, their use in minority languages was difficult for the authorities, especially in court proceedings; (5) the acting bodies often conducted the proceedings in Serbian and issued decisions in Serbian, due to concerns about the extra work required to translate

them, for which no additional funding was received; (6) officials who spoke Hungarian well did not know the correct legal terminology in Hungarian; (7) due to their minority status or/and the state's preferential treatment of the Serbian language, minority clients often chose Serbian as the language of administration instead of their mother tongue, which meant that knowledge of the Hungarian language has become undesirable in some places, even among the members of the Hungarian community.

Strategic Goals and Programmes

According to the above-mentioned findings, the first Linguistic Rights Strategy summarised three comprehensive strategic objectives: (1) improving the legal framework for the official use of minority languages; (2) until the first goal is achieved, (more) effective application of the *existing* legislation by public authorities; and (3) powerful enforcement of the language rights of the Hungarian community, to include developing the linguistic awareness of the Hungarian national community and improving its attitude towards language rights.

With regard to the first objective, the strategy made proposals for what the legislator should consider when regulating certain relations in the field of official use of minority languages: (1) effective control mechanisms; (2) use of unique terminology, clarity of legal texts; (3) technical achievements of e-government, efficiency of electronic communication in exercising the right of national minorities to use their mother tongue (especially in written communication); (4) distinguishing the right of persons belonging to national minorities to use their language—introduced into official use—and the right of foreign nationals to use their mother tongue before courts; (5) taking into account the additional costs of minority-language use (e.g. translation, printing of forms) and determining the financing obligation of bodies with public authority in order to cover possible expenditures of official use of national minority languages (because without this element of budgetary planning, the given body could not meet the demands of persons belonging to national minorities even under threat of sanctions).

The HNMC has consistently presented these expectations at various round tables and conferences and to international monitoring bodies, and has formulated recommendations and resolutions for harmonisation and interpretation of minority legislation. For overall realisation of this strategic programme, however, the HNMC required (external) political help and support from the parliamentary representation of Hungarians in the National Assembly of Serbia. This was notwithstanding the authorisations of the national councils to participate in the preparation of laws and other regulations, or initiate the adoption or amendment of laws and other regulations (Law on National Councils of National Minorities, art. 10, para. 10).

The second strategic goal was no simpler than the first, as its essence was to change and improve the attitude within the offices both towards the language

rights of the Hungarian community and the quality of Hungarian language use. For this purpose, the HNMC provided technical conditions (translation of forms, internal documents, web pages) through individual applications or tenders; provided interpreters or Hungarian-speaking experts when it was necessary; financed the publication of a Serbian-Hungarian/Hungarian-Serbian legal and administrative dictionary that was freely distributed to almost every public body in the AP of Vojvodina (where the Hungarian language is in official use); and frequently organised translation courses and seminars on legal terminology for Hungarian-speaking lawyers. The goal was to help with day-to-day work in order to make working in the Hungarian language as straightforward as possible. Within the strategic programme *Projects Supporting Professional Translations,* dozens of laws and international conventions have been translated and published through a national legal software (as well as on the HNMC webpage), local and state forms and other document samples were translated into Hungarian and digitalised in order to be compatible with the national e-administration platform, the Hungarian language versions of all secondary school subjects were completed, as were the names of public institutions. The official Hungarian names of local municipalities and other settlements were codified much earlier (immediately after the HNMC was initially elected through an electoral assembly in 2002).

But these programmes are worth nothing if there are no Hungarian-speaking officials whose work might be facilitated by pre-made translations, or who can improve their knowledge of Hungarian legal terminology. For this reason, a special strategic programme dealt with the teaching of the Hungarian language to adults, for which a textbook package was prepared, supplemented with a teacher's manual. Furthermore, a pocket dictionary was distributed among the most customer-focused bodies (police, social insurance companies, tax office) which contained the most frequently used terms and expressions in everyday communication.

'There is no doubt that the approach of a national community to its mother language can be improved only by parallel improvement of material, technical conditions of official use of the minority language in both quantitative and qualitative terms, including professional development of staff' (Beretka, 2015, p. 139). However, the education of the public cannot be overlooked. Various informative campaigns were organised: an information booklet, *Our Language Rights in Serbia*, reached tens of thousands of households as part of the only Hungarian daily newspaper (*Magyar Szó)*, and its electronic version was uploaded to the webpage of local municipalities; Serbian and Hungarian informational posters were also distributed to public authorities, to be displayed in customer reception offices. But the most popular information programme was undoubtedly the eight-part TV cartoon series that processed all the major language rights and was broadcast several times a day on regional TV and radio. Thanks to the series, the number of infringement complaints increased exponentially, and the HNMC had to intervene several times a day because of the alleged violations.

According to the Law, the national councils may submit complaints to the competent bodies, when the council assesses that there has been a violation of the constitutionally and legally guaranteed rights and freedoms of members of national minorities (art. 10 para. 12). The free legal aid programme for official use of minority language provided multilayered help, ranging from consultations and sending notifications, to making a complaint to the appropriate bodies (usually the Ombudsman; rarely the courts). On the one hand, the programme was based on individual announcements, while on the other hand, the HNMC itself initiated changes, usually following multi-round meetings with competent authorities. Thanks to the rapid response, a relationship of trust has developed between citizens and the council over the years. During this period, the number of registered language rights violations in the Ombudsman's reports also increased, as did the number of (successful) interventions.

Critical Analysis

The first strategy certainly brought changes, or at least initiated changes. Setting up an effective coordination and cooperation with public bodies required time before the actual results could be seen. There have also been projects that were not specifically included in the strategy but have been in demand over the years, especially due to accelerated digitalisation and the normative changes (suffice to mention the decision of the Constitutional Court to revoke the powers of the Autonomous Province of Vojvodina in the field of official language use). Overall, the strategy has been successful with a fundamentally positive shift in almost all areas of intervention, even if some strategy programmes have not yet been implemented. To give an example, the Vojvodina Hungarian Language Office (as a completely new institution under the HNMC's control) has not been established, where the primary goal would have been to take over certain tasks from the HNMC, such as promotion of language rights, organisation of linguistic conferences and conduct of research, establishing a database on language and language use, creation of dictionaries and consulting.

The main shortcoming of the first strategy is, in fact, its invisibility. Although the Hungarian community received continuous information about the various programmes through several channels and Hungarian-speaking lawyers and translators were regularly invited to professional events, the strategy itself was not expressly presented in municipal offices and state bodies. Other national minorities knew about its existence, tried to copy it or at least take over some of its programmes due to cooperation with the HNMC, but this does not change the fact that the strategy was not translated into Serbian (or any other foreign language), was not the subject of (scientific) analysis and its implementation remained primarily an internal matter for the HNMC. Of course, this was not necessarily a real weak point, as it was primarily a guide to the work of the council, but without active cooperation of the 'target

audience' (primarily Hungarian and Serbian officials, judges, translators, local decision-makers) any well-intentioned effort is doomed to failure, especially in official use of minority languages.

4 The Second/Valid Linguistic Rights Strategy (2021–2026)

As already mentioned, the second Linguistic Rights Strategy approaches the issue of language rights from a much broader perspective and is more akin to a classic language strategy, although its title has remained *Strategy on the Official Use of Language and Script*. Besides the official use of the Hungarian language, it contains programmes on Hungarian education, media, culture and even on religious practices in Hungarian. This is explained in the introduction to the strategy itself: 'The mother tongue (of any language community) is born only in the community, only the community can use, build, and maintain it. The official use of the mother tongue can only be of value if it is used as an extension of this common, natural use of mother tongue'.

While the expansion of strategic planning in this form is certainly to be welcomed, it also placed a greater responsibility and burden on the drafters, and they, in turn, had to carry out a much more detailed assessment of the situation. In the analysis of the situation, background and processes, the results of which are summarised in two chapters called *Opportunities* and *Chances and Processes*, the authors tried to find a balance between the presentation of linguistic rights in official communication and evaluation of language use in other spheres of social life, including even the specificities of spoken Hungarian language in Vojvodina. However, despite all efforts, it was not possible to get a realistic picture of the situation of the Hungarian language in public offices and the judiciary. The strategy mainly concerns the presentation of the legislation; it mentions some problems that occur in practice, but it does not provide supporting data on how many local government names appear on signs in Hungarian, how many court appeals were in Hungarian or how many initial court proceedings were conducted in Hungarian, etc. In the field of education, for example, the second strategy provides complex tables on the number of children attending a Hungarian language class in elementary and secondary schools in Vojvodina. However, it would be equally important to *quantify* the situation of minority-language rights in official communication. Without this, there is no starting point from where the strategy can move on, from where it can develop further. On the other hand, the findings of the first strategy have remained largely valid, notwithstanding the efforts made during its mandate.

Strategic Goals and Programmes

As this is a relatively new strategy, we cannot yet really talk about its successful implementation. Instead, its innovations will be demonstrated from a critical

perspective. Undoubtedly, the most obvious difference in relation to the first Linguistic Rights Strategy lies in the extension of the goals, the naming of the target group and partners and the determination of indicators. Although a separate deadline has been set for each measure, in most cases the deadline is *continuous*, which makes it difficult to monitor the implementation of the programmes. Also, it should be noted at the beginning of this summary that some tasks appear more than once under several titles. This is especially true for publishing terminological dictionaries, programmes of language planning and consulting, support for translations, various informational or educational campaigns, competitions and research. In any case, the six strategic priorities are maintained by detailed explanations, sub-goals and measures in a tabular form that is easy to follow.

Due to the broader subject matter of the second Linguistic Rights Strategy, the objectives also cover a wider range. This is evidenced by the first strategic priority called *Language and Community* and the measures assigned to it. The long-term survival, preservation of the autonomy of the Hungarian language, maintenance and increase of its specifics, potential and performance in the Autonomous Province of Vojvodina should be achieved through the following programmes: (1) enforcing individual and community language rights; (2) strengthening national cohesion and identity by preserving and developing linguistic-cultural heritage and traditions; (3) professional, moral and financial support for Hungarian education in Vojvodina; (4) strengthening linguistic, cultural, educational and economic positions in cities and (5) professional, moral and financial support for Hungarian information services. Most of the tasks within this group do not have a direct relationship with minority-language rights, but rather they indirectly contribute (sometimes very tenuously) to the preservation of the Hungarian language: organising thematic excursions and summer language schools, developing the educational infrastructure and a school-bus programme, urban institution building that encourages business and helps the capacity development of Hungarian businesses, technical support for the exchange of information in the mother tongue. Some programmes have been taken over from other HNMC strategies or are more in line with the profile of other strategies. To give an example, the strategic priority called *Language and Value* formulates strategic measures mostly to preserve Hungarian education and culture, such as increasing the appeal of the Hungarian language when choosing the language of education and the school; promoting Hungarian theatres in Vojvodina among the national majority; hosting teachers, writers and other public figures; supporting existing language-cultural prizes being awarded, etc. However, there are media strategy-specific measures, as well, within other priorities: state support for journalists reporting in Hungarian; more media reports on national minorities in the public service media; increasing the number of Hungarian journalists in the public service media, etc.

A special value of the strategy is that it devotes a separate section to the language use of the Hungarian community living scattered over Vojvodina

(outside the Hungarian bloc that lives mainly along the Tisza River). The strategic priority called *Language and Diaspora* aims to make Hungarians living in the diaspora interested in belonging to the Hungarian community, in maintaining and passing on their Hungarian mother tongue and in preserving their 'Hungarianness'. In this project, the Hungarian historical churches in Vojvodina have a significant role through the educational work of priests, deacons and religious studies teachers. However, regardless of the importance of this goal, it does not affect the official use of language at all. It focuses on language development and revitalisation tasks primarily in the kinds of surroundings where Hungarian is not introduced into official use or has only nominal official status without practical implications.

The programmes regarding the official use of the Hungarian language are mostly defined within the goal *State and Citizens*. Some programmes are a continuation or repetition of existing ones (from the previous strategy), but there are also very innovative ideas such as the Hungarian online administration guide (including the digitalised form of the Serbian/Hungarian-Hungarian/Serbian legal-administrative dictionary); the accreditation of training programmes on minority-language rights at the National Administration Academy; financial support for Hungarian law students by creating a legal scholarship programme (in order to secure 'supply' for Hungarian-speaking officials and judges); a 'pocket mirror' mobile application for reporting infringements; introducing Hungarian proceedings into the agenda of the e-administration platform, etc. Besides the classic fields of official use of a language, the strategy makers were convinced that public use of Hungarian language could take place in many other spaces, contexts and ways; and within this strategic priority, they initiated elaboration of local conceptions of language use that could be realised without the need for cooperation from the Serbian side: e.g. promoting those entrepreneurs and commercial chains that serve everyone in Hungarian; culturally sensitive marketing; use of Hungarian in events of great interest or in very commonly used captions and texts (restaurant menus, parking spaces, bus tickets, user interfaces of ticket machines); promoting practical multilingualism in trade and in all areas of the hospitality and creative industries.

The last two strategic goals, *Language and Science* and *Language and Nation*, deal with preserving the autonomy and coherence of the Hungarian language community in Vojvodina through recognition and utilisation of qualitative language performance (publishing the large online Serbian-Hungarian dictionary, standardising Hungarian geographical names in the Carpathian Basin, acknowledging local dialects and the value of bilingualism, online competitions in grammar).

Because it is a relatively large document (88 pages long), there is no space to recount its contents in detail; but even on the basis of the above, it can be concluded that the strategy encompasses a number of measures, the implementation of which is not traditionally one of the tasks of an NTA but depends on the state, local or regional authorities. Significantly more

resources are needed in all respects to deliver on commitments on time (till the end of the strategy's mandate in 2026). While some programmes can be implemented according to a relatively simple formula (translations, publishing new Serbian/Hungarian-Hungarian/Serbian dictionaries, organising various events), most of them require structural changes or developments, large utilisation of human resources, serious financial investments and intense cooperation with both the kin-state and Serbia (at each level of governance). In the first strategy, the council's own staff was almost entirely responsible for the implementation of the programmes, but in the case of the second Linguistic Rights Strategy the HNMC is primarily assuming a managerial role to connect the institutions, NGOs and field activists, distribute the necessary funding and monitor the realisation of the strategy as an umbrella organisation. The latter undoubtedly requires a well-developed infrastructure and a complete team of experts/professionals in all the settlements concerned; but for most Serbian national minorities, it would be probably beyond their capacities.

5 Conclusion

Developing an ambitious strategy is not enough to preserve a minority language in official use. Even with an intense, coordinated and inclusive execution, the strategic programmes should be monitored, evaluated and graded as successful only when making progress. However, in the current circumstances (large numbers of Hungarians emigrating, natural decrease of the Hungarian-speaking population, the Hungarian language disappearing from the courts, poor knowledge of legal Hungarian, etc.), the overall goal is to stop the process getting any worse, and keep any progress at the very least at the same level.

National minority councils can make a significant contribution to the development of this area, but only if the following conditions are met: (1) there is an appropriate legal environment—for which the councils need political support in order to initiate necessary legal changes; (2) there are built-in mechanisms for contact with the community as part of the process of developing and enforcing policies, strategies and activities aimed at preserving collective identity (Protector of Citizens, 2019, p. 55); (3) there is a clear consensus in society on the main emphases and strategic directions, regardless of the political affiliation and fragmentation of the given community (Gecse, 2015); (4) additional costs of multilingualism are part of the annual budget planning (of the state and other levels of governance); (5) intersectorial cooperation exists within the government, especially the ministries that have human and minority rights in their jurisdiction, with capacity from state and public administration officials for managing multicultural processes (Marković & Pavlović, 2019, p. 91); and finally, (6) there are (competent) persons within the community itself who are (and feel) responsible for implementing the strategy and preserving the given minority language. Because ultimately, it does not matter how good relations are with the state, if the

members of a national minority do not instinctively greet each other in their mother tongue when entering an office (Beretka, 2015, p. 145).

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Non-Territorial Autonomy and Minority Rights: Impact of the Self-Governing National Communities on Minority Protection in Slovenia

Ljubica Djordjević

1 Introduction

Slovenia has a highly developed system of national minority protection, with several interesting peculiarities, one of them being the self-governing national communities (SGNCs) for the Italian and Hungarian communities.[1] The right to establish SGNCs is anchored in the Slovenian constitution (art. 64.2), with the aim of facilitating the exercise of minority rights for the two communities. The constitution authorises the state to delegate certain functions to these bodies under national legislation, while obliging it to provide funds for the performance of such functions (art. 64.2).

[1] The Italian and Hungarian communities enjoy the highest level of protection as 'autochthonous'; some level of minority protection is provided for the Roma community, whereas other communities (most notably, groups from the ex-Yugoslav republics, as well as Germans) are still struggling for minority recognition. For a critical analysis see Komac (2021).

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The model combines personal and territorial elements in an interesting way: SGNCs are established by persons belonging to the respective community (personal element), but 'in geographic areas where they live' (territorial element; art. 64.2). Thus, they are in the first place local entities, established in the so-called 'ethnically mixed areas', which are defined in the respective municipal statutes. Accordingly, the Italian SGNCs exist in the municipalities of Koper/Capodistria, Piran/Pirano, Izola/Isola and Ankaran/Ancarano, while the Hungarian community has established its SGNCs in the municipalities of Lendava/Lendva, Dobrovnik/Dobronak, Hodoš/Hodos, Moravske Toplice and Šalovci.[2]

The central body of the local SGNC is the council, whose members are directly elected by persons belonging to the respective community. Crucial in this respect is the special voting register, which forms the basis for the exercise of voting rights (both active and passive).

Local SGNCs associate through the regional SGNCs: the Coastal Italian Self-Governing Community and the Pomurje (Muravidek) Hungarian Self-Governing Community. Members of these regional entities are not directly elected but are instead delegated by the local SGNCs. In this two-tier structure, the local SGNCs are minority agents at the local level and interact with the municipal authorities, whereas the regional SGNCs are regional/state actors and represent minority interests in relation to the state authorities.

The functioning of the SGNCs is regulated by the Law on Self-Governing National Communities (adopted in 1994), which addresses the issues of their tasks, organisation, relation to the local and state authorities, cross-border contacts and financing. Without going into detail, here are just a few points that might be relevant for future discussions. The purpose of the SGNCs is threefold: implementation of special (minority) rights; promotion of minority needs and interests; and organised participation in public affairs (art. 1 of the Law). According to the Law, the SGNCs decide autonomously in matters within their competence, participate in the decision-making of public authorities by providing consent or submitting proposals and initiatives and facilitate activities that contribute to the preservation of the community's identity (art. 3). The Law emphasises the following aspects of the SGNCs: their right to establish organisations and public institutions, their role in minority education through 'participating in the planning and organizing of educational work and the preparing of educational programs', cross-border contacts, as well as the possibility of performing delegated tasks (art. 4).

Most of the SGNC's competences (on both levels) fall under the category of 'shared rule', i.e. the SGNCs participate in managing institutions (schools, for instance) or in decision-making by providing consent or opinion, while no state powers (e.g. in education or culture) are entirely delegated to these bodies. Hence, the quality/strength of their participatory rights is of crucial

[2] It is worth noting that the self-governing national community does not cover the whole municipality, but only those municipal areas that are specified as 'ethnically mixed'.

importance. According to the Law, the SGNCs have the right to submit proposals, initiatives and opinions pertinent to community-related issues to municipal and state bodies (arts. 12.1 and 15.1 of the Law). This right is underpinned by the legal obligation put on the municipal authorities to deal with such initiatives and adopt a position towards them (art. 12.2). Such an obligation does not exist on the central (state) level; however, when dealing with matters related to the status of persons belonging to the communities, state bodies are obliged to acquire the prior opinion of the SGNCs (art. 15.2).

It is worth noting that in addition to participation via the SGNCs, minority participation is secured through the reserved seats for the two communities in local and state parliaments. The Constitution mandates direct representation of the Italian and Hungarian communities in the local and national representative bodies (art. 64.3), reserves one seat each in the National Assembly for the Italian and Hungarian communities (art. 80.3),[3] and gives representatives of the communities veto rights over general legal acts pertinent to national minorities (art. 64.5). Interestingly, while there is no formal link between the MP representing the national community and the respective SGNC, such a link does exist at the local level. The Law on SGNCs obliges minority community representative(s) in the local parliament to acquire the consent of the SGNC prior to decisions on issues pertinent to the community (art. 13 of the Law; see also art. 39.3 of the Law on Local Self-Government). Hence, the SGNC has twin means of access to the local parliament: directly, when providing proposals, initiatives and opinions; and indirectly, through the minority representative, when giving consent to municipal decisions.

The SGNCs are deeply entrenched in the Slovenian system of minority protection, but are often taken for granted and are rarely assessed to gauge their real impact. There is no systematic monitoring of their performance, and evidence-tracking of their everyday work is scarce and scattered. Against this background, this paper rests on the analysis of the implementation monitoring of the Framework Convention for the Protection of National Minorities (FCNM) in Slovenia, and the issues pertinent to the SGNCs that have appeared in the monitoring so far. The FCNM has been in force in Slovenia since 1998 and four monitoring cycles have been completed so far (with the fifth cycle under way) (Council of Europe, n.d.). Each monitoring cycle has a standard structure consisting of the State Report, Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC) visit, followed by the Opinion, government comments and the Committee of Ministers Resolution. These phases of the cycle have all been subjected to the analysis here, with the aim of identifying the role, importance and impact that have been ceded to the SGNCs in implementing the FCNM. The general preliminary impression is that while the institutional position and the formal role of the SGNCs have been acknowledged, their concrete

[3] The equivalent representation at the local level is secured by the Law on Local Self-Government (art. 39.1).

contribution and impact on the implementation of minority rights as indirectly stipulated in the FCNM have been tackled in a rather superficial way. Nevertheless, the documents in question offer a valuable insight into the issues relating to the functioning of the SGNCs that have attracted attention in almost 25 years of monitoring practice. This paper offers a brief overview of the most striking issues relevant to the SGNCs' functioning and the implementation of minority rights, as documented by the FCNM monitoring process. The order of presentation follows the FCNM structure.

2 Personal Scope of Application

The SGNCs are based on the special voting register: *stricto sensu*, members of the minority community are persons enrolled in the special voting register. On this basis, they are entitled to vote (and stand in the elections) for the SGNC council and for minority representatives in the local and national parliaments. The SGNCs have a decisive role in the process because they (or, more precisely, their commission) are entitled to decide on the entry of persons in the special voting register. The issue of the special voting register had been problematic as early as the 1990s, on the grounds of the lack of any criteria for enrolment. The matter reached as high as the Constitutional Court, which found that the lack of legal stipulation of criteria for the entry of persons in the special voting registers was unconstitutional (Government of Slovenia, 2000, p. 25).[4] After a very brief mention in the First State Report, the issue only re-emerged in the Fourth ACFC Opinion, where the ACFC noted concerns expressed by the Italian minority on the implementation of provisions pertinent to the special voting register (ACFC, 2017, para. 16).

In 2013, Slovenia adopted a new Law on the Voting Right Register, in which it finally responded to the finding of the Constitutional Court and set an outline for the enrolment criteria. The Law combines subjective and objective criteria and authorises the competent SGNC commission to decide on the enrolment (art. 12). The chief precondition for enrolment is a statement of belonging to the community, which a person submits to the SGNC. However, this is not sufficient in itself, and in order to make a decision on the enrolment the SGNC commission assesses objective criteria too. The law has authorised the SGNCs to determine these criteria but has defined a few guiding parameters: 'maintaining long, solid and lasting ties with their community, or care to maintain everything that constitutes the common identity of individual communities, including their culture or language, or family ties up to the second degree in direct line with a citizen who has already been granted the voting right as community member'.[5]

[4] For details of the Constitutional Court decision see Komac (2000, pp. 360–363).

[5] Article 12.3 of the Law on the Voting Right Register, in the translation provided in the Fourth ACFC Opinion on Slovenia (ACFC, 2017, p. 29, footnote 68).

In the fourth monitoring cycle, representatives of the Italian community questioned the definition of criteria as potentially harmful to the right to free self-identification and the 'official size' (i.e. it would have a reducing effect) of the community (ACFC, 2017, paras. 16, 85). The ACFC has not engaged in detail with the issue, but simply recalled 'the importance it attaches to the principle of free self-identification' (ACFC, 2017, para. 85). The real-life implications of the respective legal provisions remain unclear.

3 Culture

It is not easy to assess the role and impact of the SGNCs on the preservation and development of minority culture, as the monitoring documents provide only limited information on implemented cultural activities. While it was acknowledged in the First State Report that SGNCs establish and co-establish cultural institutions (Government of Slovenia, 2000, p. 27), neither the State Reports nor the ACFC Opinions provide a comprehensive overview of cultural institutions that have been co-established by the SGNCs. Exploring the monitoring documents, one can learn that in 2004 the Lendava Library was established by the municipalities of Lendava and Dobrovnik and the two respective municipal Hungarian SGNCs (Government of Slovenia, 2004, p. 33). At the time of reporting, about one-third of the library fund covered books and materials in Hungarian. The Third State Report reveals that the cultural activities of the Hungarian community are managed by the Institute for the Culture of the Hungarian National Community, but it in no way acknowledges the founding role of the SGNC in the Institute (Government of Slovenia, 2010, pp. 27–28). In the later monitoring cycle, the ACFC observed that the Institute 'is very active in preserving the Hungarian language and cultural identity, in particular by providing professional support to local dance, music and folklore associations' (ACFC, 2017, para. 39), but completely ignored the role of the SGNC. A reference is also made to the Lendava Cultural Centre, again without mentioning the SGNC's role in it (Government of Slovenia, 2010, p. 12). Similarly, information that the Italian Centre for Promotion, Culture, Education and Development *Carlo Combi* was established in 2007 does not disclose its founder structure and the role of the SGNC (Government of Slovenia, 2010, p. 12). Cultural activities facilitated through the SGNC have gained more attention in the Fifth State Report, but interestingly under the area of cross-border cooperation (Government of Slovenia, 2020, pp. 50–53). In the case of the Hungarian community, this covers 'literary presentations, important anniversaries, commemorations, Statehood Day ceremony, local holidays and village feasts', and, for the Italian community, 'music concerts and artistic events' (Government of Slovenia, 2020, pp. 50–53).

The position of the SGNCs in the management of local/regional cultural institutions co-founded by the municipality or the state is completely absent from the monitoring documents. The SGNCs' participation in drafting state

cultural policies, programmes and projects also remains unaddressed. The sole indication in this respect is an ACFC recommendation inviting the Slovenian authorities to 'secure effective and timely participation of national minority representatives in decision-making on projects aimed at supporting minority culture' (ACFC, 2011, para. 61), signalling room for improvement in the quality of participation in this area.

4 Media

The main role of the SGNCs in the field of media is linked to their indirect participation in the management of the national radio and television broadcaster RTV Slovenia. Both the Italian and Hungarian communities have a representative on the Programme Board (in some of the monitoring documents also referred to as the Programme Council), which is the highest managing body of RTV Slovenia (Government of Slovenia, 2000, para. 109). Although not explicitly mentioned in the monitoring documents, the respective umbrella SGNC delegates a representative to the Programme Board. This body has 29 members in total, and the monitoring documents do not reveal the factual position of the minority representatives, nor do they mention to what extent minority concerns are addressed by the Programme Board.

RTV Slovenia has a remarkable programme in the two minority languages, facilitated through the regional centre Koper/Capodistria for the Italian community and the regional centre Maribor-studio Lendava/Lendva for the Hungarian community (see, for instance, ACFC, 2017, para. 62). Central to the Italian and Hungarian community programmes are the respective programme committees, where two-thirds of the members are appointed by the umbrella SGNC (see, for instance, Government of Slovenia, 2010, p. 47). The competence of the respective programme committee to participate in the appointment of the Assistant Director-General for the community programme means that the SGNC can exert at least indirect influence on this decision.[6] Notwithstanding the imperative of the freedom and independence of the media (including from the SGNC), the structure of the programme committee provides a channel for the SGNC to have some say in minority programming. As the ACFC has assessed it: 'National minorities are represented in decision-making bodies of the RTV and enjoy a certain degree of autonomy at regional level as regards programme production' (ACFC, 2017, para. 62).

However, it remains unclear whether and to what extent the umbrella SGNCs can voice minority concerns with regard to media policies, strategies, or regulations. Indicative in this respect is the Law on RTV Slovenia, an issue that appeared in both the second and third monitoring cycles. Reporting

[6] The two respective Assistant Directors-General are appointed by the Director General with the consent of the relevant Programme Committee. They are directors of studios for the Italian and Hungarian programmes, respectively (for details, see Government of Slovenia, 2010, p. 50).

on the adoption of the Law in 2005, the government pointed out 'that the proposers held a meeting with representatives of the Italian and Hungarian national communities and tried to bring the text of the draft law in line with comments made by the above representatives', and 'that the draft law in no way reduces the rights of the two national communities' (Government of Slovenia, 2005, 20). This implies that there was an issue with the draft law, but in no way reveals the minority position and whether the respective SGNCs were involved in the deliberations. The issue re-emerged in the third monitoring cycle, in the context of the RTV Law of 2010 (later cancelled by referendum), in which context 'the representatives of the Italian minority feared restrictions on their rights and opportunities with regard to broadcasting in Italian', and 'regretted *a lack of timely consultation* in the process of elaboration of the act' (ACFC, 2011, para. 89; emphasis added).

Minority media outlets are almost invisible in the monitoring documents. The State Reports briefly reveal that *La Cittá*, *Il Mandracchio*, *Lasa pur dir* and *Il Trillo* have been published in the Italian mixed areas (Government of Slovenia, 2000, para. 82, 2017, p. 55). A reference is also made to the daily newspaper *La Voce del Popolo*, which has been published in Rijeka (Croatia) but which is also relevant for the Italian community in Slovenia (Government of Slovenia, 2000, para. 82, 2017, p. 55). However, the Reports do not address the role of the SGNCs in supporting these publications. On the other hand, the Second State Report reveals that the Hungarian weekly *Népújság* is published by the Institute for the Information Activity of the Hungarian National Community (Government of Slovenia, 2004, p. 32), but does not indicate that the Hungarian SGNC founded the Institute. Some relatively detailed information on *Népújság* appeared only in the Fifth State Report, in the context of the co-financing of media programmes, where it was described simply as 'a weekly magazine of the Hungarian national minority in Slovenia', with no reference to the SGNC (Government of Slovenia, 2020, p. 24).

5 Language Use

Language protection is one of the central elements of the Slovenian system of minority protection. The Italian and Hungarian languages enjoy a high level of legal protection and 'ethnically mixed areas' are *de jure* bilingual, with the minority language enjoying equal official status. There are various measures in place to underpin bilingualism at the local level, the most prominent being the 3–6% increase in basic salary for positions where knowledge of a minority language is required (Government of Slovenia, 2000, p. 45). However, implementation of the legal framework is not always smooth, and 'minority representatives and the government acknowledged that there were gaps in the use of these two languages' (ACFC, 2017, para. 69). As the ACFC has observed, for the purpose of improvement 'training for public employees and language promotion in education and teaching, information and media

activities, cultural activities and scientific research are provided' (ACFC, 2017, para. 69).

Monitoring documents do not provide substantive information on the role of the SGNCs in the promotion of minority-language use. The Fourth State Report only reveals that in 2015 the government adopted the Programme of Measures for the Implementation of Regulations on Bilingualism for 2015–2018, and that the representatives of the Coastal (Italian) and the Hungarian SGNCs were part of the working sub-group that drafted the action plan (Government of Slovenia, 2017, p. 9). The State Report does not provide details on the Programme, nor the action measures adopted, so it remains unclear whether any role was given to the SGNCs in the implementation of the Programme/measures.

In the Third State Report, it was noted that the Italian MP had initiated proceedings before the Constitutional Court, challenging a provision of the Law on Societies related to the name of a society, arguing that it violates the equal status of minority languages in ethnically mixed areas (Government of Slovenia, 2010, p. 40). This prompts a question about the extent to which the SGNCs are active in addressing violations of language rights or making institutional claims for the implementation of these rights. Indicative in this respect is the Fourth ACFC Opinion, which reveals 'that no complaints had been received by the central authorities or the ombudsperson on the use of the two official minority languages at local level' (ACFC, 2017, para. 70). The ACFC further notes that inspections were carried out by the authorities (ACFC, 2017, para. 70), but it remains unclear whether the SGNCs initiate such inspections via complaints.

Language protection is not limited to language use, but also covers the visible appearance of the language, in which context the topographical indications gain significance. As noted in the Third and Fourth State Reports, the municipality must obtain the consent of the relevant SGNC when deciding on the names of settlements (and other topographical indications) in ethnically mixed areas. Interestingly, the SGNC provides its consent through the minority representative(s) in the municipal assembly (Government of Slovenia, 2010, p. 55, 2017, p. 64). The Reports do not indicate the practical implementation of this provision.

6 Education

Minority education appears to be an area in which the SGNCs have the strongest potential for impact. The SGNCs are co-founders of minority schools/educational institutions and as such they participate in school management. It is interesting to note that the SGNCs are a privileged co-founders, in the sense that they do not bear financial obligations (Komac, 2000, p. 370), but still exercise the powers of a co-founder.

The nature of the co-founder partnership depends on whether a school resides under municipal or state competence. For 'municipal' schools (kindergartens and primary schools), the co-founder is the respective municipal SGNC, while for secondary schools, which fall under the jurisdiction of the education ministry, the respective umbrella SGNC acts as co-founder. In the Coastal area there are three kindergartens, three primary schools and three secondary schools. Accordingly, the municipal SGNCs of Koper/Kapodistria, Izola/Isola and Piran/Pirano are co-founders of the kindergarten and primary school in their respective municipality, and the Coastal SGNC is the co-founder of the three secondary schools. All these schools have instruction in Italian, with Slovenian being an obligatory subject. Things are different in the areas inhabited by the Hungarian minority, where schools in ethnically mixed areas are bilingual (Hungarian-Slovenian). In this context, there are four kindergartens, five primary schools and one secondary school. Again, local SGNCs are co-founders of the respective kindergarten and primary schools in the relevant municipality, whereas the Hungarian SGNC is the co-founder of the bilingual secondary school in Lendava.

As a co-founder, the SGNC has the right to delegate representatives on the school council/board (see, for instance, Government of Slovenia, 2017, p. 69). However, representatives of the SGNC are not dominant on the school board, but interact with representatives of other stakeholders, and as such they cannot impose school board decisions. Another channel for the SGNC to exercise some influence on schools is provided through its competence to 'give an opinion on the proposal for the annual work plan of a school' (Government of Slovenia, 2020, p. 19).

The umbrella SGNCs also play a role in minority education through their participation in various state bodies pertinent to education. Both the Coastal and the Hungarian SGNCs send one representative each to the Council of Experts for General Education, the Task Force for the Education of Communities and the Extended Task Force for the Education of Communities (under the National Education Institute), while the presidents of both SGNCs are members of the special working group for minority education under the Ministry of Education. Moreover, under the Council of Experts, there is a committee for minority education composed of three members, of which two are the minority representatives on the Council (Government of Slovenia, 2017, p. 73). The Committee 'deals with issues relating to education in ethnically mixed areas' and 'submits opinions to the Council of Experts regarding the adoption of syllabuses, curricula, the adaptation of programmes, etc. in these areas' (Government of Slovenia, 2017, p. 73). In addition, the Council of Experts, when determining the programmes pertinent to the minorities, must solicit the opinion of the respective umbrella SGNC, and cannot adopt or determine a minority educational programme without the agreement of its members who represent the Italian and/or Hungarian SGNC (Government of Slovenia, 2017, p. 73). It is also noteworthy that any change in

the education network requires the consent of the relevant SGNC (Government of Slovenia, 2017, p. 69). Furthermore, the consent of the Coastal and Hungarian SGNCs is needed for the adoption of ministerial rules relating to organising and financing schools from the state budget (Government of Slovenia, 2017, p. 74).

According to the monitoring documents, it appears that the weakest element in minority education is the lack of minority-language skills among teachers (ACFC, 2017, para. 80). Positively, both the Coastal and the Hungarian SGNCs have addressed this issue, engaging in a project for 'improved minority language competence of teaching professionals' in Italian and bilingual Hungarian-Slovenian schools, respectively (Government of Slovenia, 2017, pp. 38–39). Moreover, the Hungarian SGNC has implemented a project related to 'e-competences of teachers in bilingual schools' (Government of Slovenia, 2017, p. 39). The ACFC also acknowledged that the SGNCs 'have been in charge of projects, which are meant to involve 150 teachers for the period 2016–2020' (ACFC, 2017, para. 80).

7 Participation in Public Affairs

As shown above, the core SGNC powers relate to participation in decision-making, be it through delegated representatives in competent bodies or by providing an opinion or consent. Together with the minority representatives in national and local parliaments, the SGNCs are the channel for articulating minority interests and for the formal minority's participation in public affairs. In its Third Opinion, the ACFC noted that 'persons belonging to the Hungarian and Italian minorities continue to have good possibilities to participate in public affairs at the local level in the "ethnically mixed" areas', but that 'their involvement in policy-making at central level remains insufficient' (ACFC, 2011, para. 125). This is a slight improvement from the second monitoring cycle, when both Hungarian and Italian representatives reported deficiencies in the actual impact of their participation, especially at central level (ACFC, 2005, para. 25). They complained that 'their voices are insufficiently heard in public affairs and that [...] the impact of their participation in the taking of decisions concerning them, particularly at the central level, has been diminishing' (ACFC, 2005, para. 167). Against this background, in the second monitoring cycle the ACFC recommended that the authorities 'identify, in conjunction with representatives of the minorities, ways to improve their participation in the taking of decisions concerning them, at local and central level' (ACFC, 2005, p. 41).

Indeed, the Second State Report noted the complaints of the Italian community about 'the inconsistent application' of Article 15.2 of the Law on SGNCs, which provoked the Secretary General of the government to issue, in 2003, an instruction 'on the integration of national communities in the decision-making procedures related to the status of their members' (Government of Slovenia, 2004, p. 24). Following the provision of Article

15.2, requiring the state bodies to get the prior opinion of the SGNCs when deciding on matters related to national communities, the instruction called on ministries to 'cooperate with national communities already when preparing the documents' that will eventually be adopted by the National Assembly, notwithstanding the fact that the National Assembly is also obliged to seek the opinions of the SGNCs (Government of Slovenia, 2004, p. 24). Moreover, the instruction called on the state authorities, when they make decisions within the framework of the executive (the government, the ministries and other state bodies), to acquire a preliminary opinion from the Italian SGNC for matters involving the Italian community, and from the Hungarian SGNC for matters involving the Hungarian national community (Government of Slovenia, 2004, p. 24). This corresponds with the findings of the ACFC in the third monitoring cycle that 'at central level, the impact of the involvement of representatives (of Italian and Hungarian) minorities could be greatly improved by a consultation, at the right moment, in particular during law-making process' (ACFC, 2011, para. 24). Along these lines, the ACFC has invited the authorities 'to ensure timely and effective consultation of representatives of the Hungarian and Italian minorities, especially when preparing new legislation of concern to them, in order to make sure that their views are duly taken into account' (ACFC, 2011, para. 128). The issue disappeared from the radar in the fourth monitoring cycle, nor was it addressed in the Fifth State Report. Moreover, consultation within the Government Commission for the Italian and Hungarian Communities, to which the umbrella SGNCs of the two communities send one representative each (Government of Slovenia, 2000, para. 115, 2010, p. 13), has not been sufficiently addressed in the monitoring, and the impact of the SGNCs within this body remains unclear.

8 Territorial Organisation (Administrative Change)

The establishment of the municipality of Ankaran/Ancarano (in the area where the Italian community resides) attracted significant attention in the third monitoring cycle. In 2009, a local referendum was held in Ankaran/Ancarano, at the time part of the Koper/Capodistria municipality, in which voters expressed the wish to create a new municipality of Ankaran/Ancarano (ACFC, 2011, para. 129; Government of Slovenia, 2017, p. 19). The Constitutional Court even had to intervene in 2010 and order the creation of a new municipality, which was eventually established in 2011 (ACFC, 2011, para. 129; ACFC, 2017, para. 90; Government of Slovenia, 2017, p. 19). This issue raised the question of the involvement of the Italian community in the process and even resulted in the ACFC including the issue among the ones requiring 'immediate action'.

The ACFC observed that this development was a source of 'deep concern for part of the Italian minority living on this territory', noting a 'lack of consultation and involvement of representatives of the Italian minority in the

preparation of this administrative change', as well as 'a lack of clarity as to the possible consequences of this administrative change for the protection of the rights of persons belonging to the Italian minority' (ACFC, 2011, para. 129). Since there was apparently insufficient involvement of the representatives of the Italian community in the process, the ACFC expressed doubts that their concerns had been duly taken into account (ACFC, 2011, para 24). Consequently, the ACFC has urged the authorities to 'ensure effective involvement of national minority representatives in discussions on any administrative change that could have an impact on minority protection', and especially to 'take measures to guarantee that the protection of persons belonging to national minorities will not diminish as a result of the creation of the municipality of Ankaran/Ancarano' (ACFC, 2011, p. 2).

In the Fourth State Report, the authorities acknowledged that 'in the procedure for the establishment of the municipality of Ankaran, opinions on the matter were obtained from the Coastal Italian Self-Governing Community [and] the Italian Self-Governing National Community Koper' (Government of Slovenia, 2017, p. 19). Nevertheless, 'the Italian minority considered that the process concerning the creation of the Ankaran/Ancarano municipality and self-governing community did not take their concerns duly into account' (ACFC, 2017, para. 90).

9 Cross-Border Cooperation

The SGNCs are important actors in cross-border cooperation. In fact, promoting contacts in the nation of origin, with minorities in other countries, as well as with international organisations is one of their statutory tasks (Law on Self-Governing National Communities, art. 4). Cooperation with organisations and institutions in the respective kin-state plays a considerable role in the SGNCs' activities. The monitoring documents reveal numerous projects that the SGNCs implement with the support of their kin-state and in cooperation with organisations from the kin-state. The Fifth State Report reveals extensive cooperation between the Hungarian SGNCs and stakeholders in Hungary: meetings with representatives of the authorities, associations and societies, schools, cultural institutions, participation in business meetings, attendance of cultural and art events and fairs in Hungary (Government of Slovenia, 2020, pp. 50–51). The Italian SGNCs also maintain close contact with stakeholders in Italy through meetings at various levels, while they also cooperate intensively with Italian partners in organising music concerts and artistic events (Government of Slovenia, 2020, pp. 52–53). Moreover, the SGNCs maintain contacts with their co-nationals in other countries: Hungarians in the Carpathian Basin and Italians in Croatia, respectively.

It is axiomatic that the SGNCs also function as stakeholders in bilateral relations between Slovenia and the respective kin-state. Representatives of the SGNCs are members of the intergovernmental commissions dealing with cultural, scientific and educational cooperation, and they are able to voice

their positions before relevant international agreements are reached,[7] as well as before meetings between high officials from Slovenia and Hungary/Italy (Government of Slovenia, 2000, para. 122).

The quality of cross-border cooperation has been positively assessed throughout the monitoring cycles and has not caused concerns. Indicative in this respect is the ACFC endorsement of 'the well-developed co-operation with neighbouring states in the field of minority protection, both at inter-states level and at the level of co-operation between minority organisations' (ACFC, 2011, para. 138). Interestingly though, the ACFC Opinion reveals that 'insufficient implementation of minority rights by neighbouring States is sometimes used as an argument for not giving further consideration to claims by representatives of minorities', which 'has a negative impact on public perceptions of persons belonging to national minorities' (ACFC, 2011, para. 138).

10 Conclusion

The analysis of the monitoring documents reveals a number of valuable findings. First, as is the case in many countries, the Slovenian reporting is predominantly focused on the normative framework, providing scant information on the implementation and impact of the legal provisions in practice. Accordingly, the documents reveal only very limited (or indirect) insight into the real-life functioning of the SGNCs. Second, the State Reports are heavily state-driven: even the ACFC has on several occasions criticised the failure of the state to involve minority representatives in the preparation of the State Report (ACFC, 2011, para. 8; ACFC, 2017, para. 2). Consequently, the minority perspective, and more precisely the SGNCs' perspective, is almost invisible in the Reports (this perspective has only been to some extent voiced through the ACFC Opinions). This state-driven approach is also reflected in the general state attitude towards the SGNCs: they are treated as beneficiaries of state action/support, but less so as active minority agents and partners. Finally, the documents reveal an impressive potential for the SGNCs to act as full-scale minority agents. The powers of co-decision and channels for participation provided for the SGNCs in the Slovenian legal order are indeed remarkable: by virtue of law, no decision pertinent to national minorities can be adopted without at least the indirect involvement of the respective SGNC. However, the real-life situation is less ideal. While the formal presence of the SGNCs in decision-making is secured via the participation of their representatives in various public bodies, it remains unclear whether they can always voice minority concerns, and to what extent they can influence the decisions taken. It appears that the SGNCs have still not achieved the position that the law envisages for them. The SGNCs' strikingly low presence in the monitoring documents does not correspond to the powers legally vested in them. One would expect the SGNCs to be the core stakeholders in minority protection,

[7] This is also a statutory obligation under Article 17.2 of the Law on the SGNCs.

but this is not the case, and it appears that the state is still the predominant actor. Consequently, to be able to fulfil their role in minority self-government and as the core partner to public institutions in issues pertinent to minority protection, the SGNCs require further empowerment (capacity building) and additional attention, not only from the state but also from the ACFC.

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Cultural Autonomy, Safe Haven or Window-Dressing? Institutions Maintained by Minority Self-Governments in Hungary

Balázs Dobos

1 Introduction

Although the concept, forms, types and necessary components of minority autonomies have been highly disputed in the relevant literature, many agree that its crucial objective is to enable non-dominant ethno-cultural minorities to decide those issues that affect them, to manage their own affairs, and to do so within an institutionalised, legally defined framework. In the case of non-territorial autonomies (NTAs) and NCAs, this entails primarily the administration of their own linguistic, educational and cultural issues. It also raises the additional questions of whether they actually have the necessary decision-making powers in these matters, or at least some influence on the work of these institutions, whether they are able to establish, or take over, and maintain such institutions and, not least, whether they have the necessary resources to carry out these tasks.

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Among the central and Eastern European countries after the fall of the communist regimes, Hungary was one of the first to refer to the notion of NCA in its laws and policies concerning the country's relatively small and highly assimilated minorities. Act 77 of 1993 introduced the system of elected MSGs at different levels, the local variant of NCAs and in theory allowed them to become institutional maintainers in the cultural and educational fields along with public institutions and others, e.g. private and church-based service providers. In practice, however, this remained largely on paper for more than a decade. Changes began later, in the mid-2000s, when the emphasis tended to be placed on so-called institutionalisation, a concept which in this context primarily meant the aim of MSGs establishing, or taking over, and maintaining the various cultural and educational institutions, with appropriate budget support. As a result, there are now hundreds of institutions—kindergartens, primary and secondary schools, halls of residence, museums, archives, libraries, theatres, radio stations, publishing houses, research institutes, etc.—that are run by minority groups. (For the total numbers of educational institutions, see Appendix 1) In this way, MSGs have become one of the main actors in implementing linguistic, cultural and educational minority rights in the country. This is all the more important because recent studies have demonstrated that language shift among minorities is a gradual and irreversible process (see e.g. Borbély, 2015), which in practice often means that the transmission of minority languages and identities in families is now largely interrupted, and therefore minority educational institutions in particular have an increasingly important role to play in preserving minority identities.

However, the process of institutionalisation of MSGs has by no means been uncontroversial, and such controversy still characterises minorities to varying degrees, of which those who were already recognised in the communist era and thus had already an extensive network of institutions are in a better position (Croats, Germans, Romanians, Serbs, Slovaks and Slovenes). In contrast, the establishment of institutions for those minorities recognised later under the 1993 Minority Act (Armenians, Bulgarians, Greeks, Poles, Roma, Rusyns and Ukrainians) could only begin in the last two decades. The efforts of minorities to take over institutions from other maintainers have sometimes been viewed with concern and suspicion. Institutionalisation has in some cases provoked conflicts between MSGs and municipal leaderships, and/or led to serious debates about representation and authenticity, as well as the fraud commonly known as ethno-business,[1] even within the communities themselves, when the idea of taking over institutions met the resistance of parents and other members of the local population. In other instances, presumably external political actors prevented the takeover of local institutions, which suggests that

[1] The term was coined in Hungary in the 1990s and was used later elsewhere 'to denote the strategies of political entrepreneurs who exploited the existing legal framework for the protection of national minorities to obtain material, financial and political gains' (Carstocea, 2011, p. 163).

minorities are allowed to exercise their declared autonomy only to a limited extent, and in a controlled manner. Moreover, during the Orbán governments of the 2010s, the takeover meant a kind of escape route for local communities so that the school in the municipality would not be closed, or maintained by the centralised state administration or the churches. Such factors show that the transfer of institutions depends largely on the local conditions, in particular the relationship between the minority and the local governments. The situation further requires adaptation from all relevant stakeholders, including the minorities themselves, whose budgets have increased significantly with the introduction of central financial support for institutional maintenance (see Appendix 2). It is also a question of how these schools perform on a variety of indicators, and thus whether it is worthwhile for parents to enrol their children in them. In addition, while the financial incentives that have resulted in the increase in the number of minority institutions, some of them can hardly be considered real institutions, especially certain research centres that employ only one person. This latter raises the question of the extent to which the process of institutionalisation serves merely as window-dressing, thereby seeking to portray the country's minority policy as generous towards the domestic ethnic minority groups.

Although the process started almost two decades ago, interestingly enough the whole issue of the transfer of institutions and the various aspects of institutionalisation have significantly lacked serious academic research, so there has been an enormous gap in relevant literature, including in Hungary. Therefore, to address these issues, the major aim of this study is to introduce and analyse this complex process, to summarise and evaluate its main experiences, especially with regard to the impact of these institutions on the linguistic, cultural and educational rights of minorities. To illustrate the contradictions of the process, the paper also seeks to explore both constraints and incentives, illustrated by some telling local examples, thus shedding light on the various kinds of both inter- and intra-group conflicts and debates surrounding the increasing institutionalisation of NCA in Hungary—which might also serve as a lesson for other countries. In the absence of much relevant literature, the study relies mainly on primary sources, such as various policy documents and media reports.

2 Non-Territorial Autonomy, National Cultural Autonomy and Institutions: Conceptual Challenges

Matti Wiberg aptly states that autonomy itself is an extremely diffuse concept, which has been closely associated with many other synonyms in discourse, as well as a number of other controversial terms (Wiberg, 2005, p. 177). Thus, inevitably, many different interpretations of the tremendously broad concept of autonomy have become known, and consequently, quite diverse arrangements have often been labelled as autonomy in practice. Complicating matters

is the fact that the term has become attractive for the policies and communications of some governments, and experts have also begun to use it as a kind of measure when evaluating cases (Peleg, 2007, p. 44). The significant differences in existing practices throughout Europe ranging from rather symbolic functions to even co-decision-making power as well as the controversy between the continued dominance of the nation-state model, the large extension of state control over minority issues and inter-ethnic relations in the post-communist central and Eastern Europe, and all those positive expectations that led to the spread of various NTA regimes in this part of the continent, allowed Osipov (2013, p. 133) to argue that using the concept of cultural autonomy as a descriptive-conceptual and analytical tool is highly questionable in general, which not only underscores the need to conduct empirical and comparative research in this area, but also the need for students of NTA to examine what actually exists under that broad label.

For many, Ghai's definition of autonomy serves as a point of departure, which, while it can take many legal forms, refers to a means of enabling ethnic groups with distinct identities to exercise direct control over matters important to them, while leaving the larger entity to manage common affairs (Ghai, 2000, p. 8). However, the challenges in definition are no different for NTA and its numerous synonyms, especially in light of the various scholarly references to segmental, corporate, personal, cultural autonomies or self-governments. The attempts to give a precise definition undoubtedly pose a serious challenge to students of NTA, as the commitment to each notion may have different consequences and raise different questions and problems: for example, some of the former concepts refer to the organising principle of autonomy (non-territorial/personal), while others focus much more on its content (cultural). Furthermore, the question whether the very term 'NTA' refers to a kind of special ethnicity-based organisation and/or a general principle for establishing group representation has still not been clarified (Suksi, 2015, p.84). Both approaches are in use: while the latter, basically as a normative principle, refers mostly to the idea that an ethnic group has or should have some freedom in the conduct of its own cultural affairs, thereby representing a kind of multiculturalism, the former, being primarily an institutional solution, emphasises that an ethnicity-based, even hierarchically organised, self-government performs certain public functions from public funds for the benefit of minority communities. The practice of cultural autonomy thus carries a number of statements that can be related to the theories of multiculturalism, while the task of institution-building has remained mostly associated with the school of consociational democracy (Conversi, 2014, p. 31), and there has been also a debate as to whether NTA can be defined as part of consociational models at all.

At the same time, it has been widely accepted that NTA is merely an umbrella term that describes different practices and includes various theories with the aim to represent a specific ethno-cultural segment of the society

and that does not seek exclusive control over territory. As a narrower subcategory within the broader concept of NTA, non-territorial cultural or NCA was systematically elaborated by the Austro-Marxists Renner and Bauer in the Austro-Hungarian Empire at the beginning of the twentieth century (Smith & Hiden, 2012). However, the attempts to develop a definition have been divided as to whether they distinguish between personal autonomy in a narrower sense and the broader cultural autonomy, and to what extent they put emphasis on individual or collective rights, and further, whether and to what extent, and at which administrative levels they find it necessary to create power-sharing arrangements and to establish either private or public institutions to manage internal group affairs.

Among the various scholarly attempts aiming at elaborating a definition of NTA, a number of experts focus on institutionalisation, tending to exceed the minorities' right to freely associate. In their view, the different forms of NTA tend to move beyond the right that simply allows the exercise of communal culture and traditions at the individual level, to where members of minority communities can become mobilised within a possible institutional framework of autonomy in order to preserve their identities and peculiarities (O'Leary, 2008, p. 55). According to Lapidoth, the institutions created by the community can provide the framework within which those belonging to the community can preserve their distinctive features (Lapidoth, 1997, p. 175). Eide (1998, p. 251) holds that cultural autonomy means the right of self-government for a culturally defined group in those matters that involve the preservation of its own culture. Roach takes a similar approach when he defines cultural autonomy as a form of non-territorial self-government that allows the culture of the group to survive, for example through councils or formal unions (Roach, 2004, p. 411). According to McGarry and Moore (2005, p. 68), state-established or 'official' institutions are necessary in order to realise a group's self-government in certain cultural matters on a non-territorial basis. Brunner and Küpper (2002) argue that an NTA could be observed when a group has different rights and powers in the form of at least one aspect of self-government, with institutional structures that can be established on a private and public legal basis. According to Decker, cultural autonomy is a public body within which registered group members can conduct their own educational and cultural affairs through the imposition of taxes, with state and, where appropriate, kin-state support (Decker, 2011, p. 102). Consequently, in order to separate minority cultures from the state, those MSGs or councils operating in Hungary or Serbia, for example, and established primarily in the field of linguistic and cultural affairs, can be interpreted as autonomous (Ghai, 2005, pp. 41–42).

Overall, a common element of the definitions centred around different levels of autonomy (personal, cultural, functional, territorial, etc.) and possible transitions and combinations among these levels is that the subject of NTA, in contrast to territorial autonomy, is not necessarily an administrative-territorial unit, but the community itself, and it may be suitable especially for small and

territorially dispersed ethno-cultural groups to administer their own linguistic, cultural and educational issues—or family law matters in the case of religious communities. Thus, it focuses on narrower policy areas in which it typically has less extensive political participatory and decision-making rights, i.e. it cannot, for example, adopt legal acts at the same level as state law. The institutions of autonomy are less entrenched by legal guarantees and, although in principle they may have the option of levying their own taxes, in fact they are more financially dependent on the central budget than a territorial form of self-governance. These factors can be said to apply to the Hungarian model of NCA (discussed in the next section), where—in line with the findings of the authors mentioned above—institutions run by minorities themselves constitute the key components of cultural autonomy in the country.

3 The Process of Institutionalisation Within the Hungarian Model of NCA

Historically, the associations, literature circles and other institutions of the minorities were nationalised after 1945 with the communist takeover. The centralised political system did not tolerate separate and ethnic-based organisations and therefore, between 1950 and 1952, abolished the local organisations of the main Slovak and 'Southern Slav'[2] associations and created the Romanian and German so-called alliances in a top-down manner, and with no local basis or membership, leaving only easy-to-manage centres with centrally appointed leaders. The change of regime in 1989 allowed for the democratic transformation of these state-controlled organisations, in addition to which various new, local, national and umbrella associations were formed from below, as the right to association was guaranteed in the same year. In addition to the growing number of associations, this was also the period when the first formalised institutions were established, including the Romanian and Slovak research centres—as well as the Croat, German and Serb theatres. After lengthy preparation, Act 77 of 1993 on the rights of national and ethnic minorities declared that 'minority communities have the right to establish their own educational, training, cultural and scientific institutional network at national level within the boundaries of existing laws'. The law also stipulated that both local and national MSGs could establish institutions especially in the fields of education, print and electronic media, and culture in the interest of developing the cultural autonomy of the given minority. However, for the next period, although the first MSGs were elected in 1994, this remained largely an empty promise because, although some institutions—such as the Slovenian-language radio station—were established by the early 2000s, the appropriate detailed legislative and financial support was lacking. Until 2003, there was no separate item in the central budget to support minorities in taking control of their

[2] This term commonly referred only to Croats, Serbs and Slovenes living in Hungary in the Communist era, whose kin-state was the neighbouring Yugoslavia.

institutions. When they did so, they had to be covered by other appropriations, projects and individual applications. Normative support was only available for schools but, during this period, only the Croats were able—in 2000—to take over a school complex (Government of Hungary, 2005).

In their letter sent after the 2002 parliamentary elections, the heads of the national MSGs detailed their most important policy expectations and requests from the new socialist-liberal government, which included the creation of a financial fund for the takeover of minority institutions. On 6 June 2002, Prime Minister Péter Medgyessy met with a delegation of minority leaders, promising to support the takeover and maintenance of institutions by minority groups.[3] Accordingly, the 2003 amendment to the Education Act included an appropriate amendment to the 1993 Minority Act, which sought to lay down the conditions and rules for the establishment, maintenance and takeover of educational institutions, mostly for national MSGs, including the issues of financing. Its most important provision was that, at the request of the national MSG, the municipal self-government was obliged to transfer the right to maintain the public educational institution that performed national or regional minority tasks. In addition, the 2003 central budget established a special fund to support minority institutions, for which MSGs had to apply. The resulting experience indicated that the amendment did improve the conditions for taking over institutions, even in the short run: the Germans could take over a schools complex and a high school in 2003, while the Slovaks took over a school complex in the following year (Úton a kulturális autonómia felé, 2004). Those minorities that did not have a developed education system within the public education inherited from past periods—the Bulgarians, Greeks and Poles for instance—started to establish so-called supplementary minority education for their students from 2004, replacing their previous Sunday schools (Government of Hungary, 2007).

However, with the exception of schools, funding from annual tenders proved to be a serious concern and uncertainty for the maintenance of any other types of institutions, especially in the first months of the year until the new calls were issued. The 2003 amendment did not cover cultural institutions: therefore, two years later, the 2005 amendment to the Minority Act sought to improve the conditions for the establishment, maintenance and takeover of these institutions. As a result, MSGs became entitled to establish and maintain cultural institutions, and to take over the right to maintain them. The strongest power was given to the national MSGs, upon the request of which the municipal self-government maintaining the institution was obliged to transfer the right to maintain the institution that performed only minority cultural tasks.

[3] Márton Ispánovity (Office for National and Ethnic Minorities): The process of institutionalisation of national minority self-governments (the edited version of the presentation at the Conference in Baja, 11–12 May 2006), in the author's possession.

With regard to the implementation of the Framework Convention for the Protection of National Minorities, the Committee of Ministers within the Council of Europe recommended that Hungary strengthen the financial and functional autonomy of the MSGs 'as regards the acquisition, running and managing of public institutions' (Council of Europe, 2005). Similarly, with regard to the implementation of the European Charter for Regional and Minority Languages, the 2007 recommendation urged the Hungarian authorities to 'improve the conditions for the transferral of educational and cultural bodies and institutions to minority self-governments' (Council of Europe, 2007).

The Minority Act (Act 179 of 2011) confirmed the previous provisions: without exception, MSGs have the right to establish, maintain and take over educational and cultural institutions. At the initiative of the national MSG, the right to maintain a public education institution shall be transferred to the MSG if it is a national or regional institution, and if at least 75% of the students participate in minority education. By contrast, at local level, an institution may be transferred to the local MSG if the national MSG has given its consent, and the institution fulfils minority duties—meaning that, similarly, at least 75% of the students participate in minority education. The opinion of the kindergarten/school board, or in its absence, the opinions of parents' and students' self-government organisations shall be attached to the initiative. In the case of kindergartens, which are typically run by local municipal governments or, in the case of a school, maintained by the state from 2013, the maintainers may offer the local MSG the running of the relevant public education institution, which they are not however legally obliged to accept. In a similar way, cultural institutions have to be transferred to the national MSGs upon their request, if they provide for at least 75% minority-related cultural tasks.

Because of the changes in legislation and funding, the number of institutions established and taken over by minorities began to increase after 2003. However, until the autumn of 2013, the adequate funding was not provided when a local MSG wanted to take over and maintain a local educational institution. The start of the 2010s saw increasing centralisation in the sphere of education policy, in line with the new national-conservative Orbán government's preference for state-centred solutions to social and economic issues. Responsibility for the maintenance and operation of both elementary and secondary schools was thus transferred to central government from the municipal self-governments in 2013 (Horváth, 2016 pp. 192–196). However, there was a generous financial incentive created for both churches and minorities, which in the latter case meant that, if MSGs took over educational institutions from state or municipal maintainers, the funding of kindergartens became more than two times higher, while for schools it increased by 15–30% compared to that received by the previous maintainer.[4] The takeover—in

[4] See, for instance, Minutes of the joint meeting of the Municipal Self-Government of Szendehely and the German Minority Self-Government of Szendehely on 15 April,

addition to strengthening cultural autonomy—served also as a kind of escape route for local communities so that schools, especially in smaller villages, would be neither closed nor taken over by the centralised state administration or a church. As a result, by the early 2020s, hundreds of institutions—kindergartens, primary and secondary schools, halls of residence, museums, archives, libraries, theatres, radio stations, publishing houses, research institutes, etc.—have become established or been taken over by minorities. In terms of takeovers by the national MSGs, this initially applied to only the most important institutions, while local governments typically became the maintainers of mostly kindergartens in those settlements where more than one operated. Due to the legal and financial incentives, this especially increased in the mid-2010s when 8–10 schools and 4–5 kindergartens were taken over almost every year.

4 The Key Disputed Issues of Institutionalisation

The first disputed issue to be addressed is the undeniably liberal approach to defining group membership: the legislation—in accordance with international standards—relies on groups' individual self-identification, which is especially striking in the case of German minority education. Given the usefulness and international prestige of knowledge in the German language, which could facilitate outward migration and the possibility of working abroad in German-speaking countries, it can hardly be surprising that already in the 1990s there were far more students attending German minority programmes than the estimated size of that community (Deets, 2002, p. 39). In 2022, with local and national German MSGs maintaining almost 70 kindergartens, primary and high schools throughout the country with the underlying principle of preserving minority identities and language, a crucial question is what percentage of the students actually belong to the German community.

The issues surrounding membership arose in other respects for the Romanian minority, of which MSGs were probably among the most affected by ethno-business, which in practice meant that those who obviously or presumably did not belong to the community, did not speak the language and were not familiar with the culture became elected to Romanian minority bodies. However, they could argue from a different perspective that, despite their Romanian background, they were assimilated into Hungary in linguistic-cultural terms, but could still declare themselves Romanian. At the inaugural session of the Romanian national MSG in 2007, the majority of the elected representatives supported neither the principle of running the session in the Romanian language nor the text of the oath being in Romanian as well as in Hungarian—which the minority ombudsman later found to be illegal if put into practice. Under such circumstances, shortly afterwards, in early 2008,

2015. (in Hungarian) http://rhost.dyndns.info/MyWeb/www_szendehely_hu/dokumentumok/egyeb/eloterjesztesek/20150415_szendehely_jegyzokonyv.pdf.

when the national MSG wanted to take over the Nicolae Balcescu Primary School, High School and College in the city of Gyula, several Romanian institutions and local Romanian MSGs (including the one in Gyula), minority associations, public figures and parents protested against the idea of taking over the most important educational complex of the Romanian minority from the municipality, highlighting, among other matters, the dubious legitimacy of the national Romanian body. Its effort was successful only a few years later, in 2013.

In other cases, the takeover of a school was not prevented by the disputes within the community itself, but by external actors and considerations, which seems to suggest that in certain cases the autonomy of the minorities has proved to be rather controlled and limited. For instance, in 2021, the national German MSG wanted to take over a local school in the Soroksár neighbourhood, the 23rd district of Budapest, because the minority lacked such an institution in the capital city. Soroksár, once a German village in the outskirts, was annexed to Budapest city in 1950 and still has a strong local German community. The majority of students attend German minority programmes and parents also supported the takeover, but it was rejected by the Ministry, probably because the school in question is the most prestigious and successful in the district with about one-third of local students enrolled in its programmes (Ónody-Molnár, 2021).

Examining the share of institutions among minorities, it is especially striking that the Roma, by far the largest ethnic minority community in Hungary, maintain relatively few institutions. Drawing on Nancy Fraser's influential distinction between claims for redistribution and recognition (2003), many observers note that the Roma face a number of social inequalities, including most notably their unfavourable socio-economic situation and the high level of ethnic discrimination that typically arises in post-communist countries, including Hungary. Redistribution and recognition are often referred to as two closely intertwined sides of the same coin yet, especially in the case of Roma, they can often be rival or conflicting principles. This is closely linked to the contested issues of how 'Roma' and their identities should be understood and shaped, how their situation should be tackled with particular regard to both their internal heterogeneity and the multiple and often conflicting narratives and criteria that have prevailed in both internally identifying and externally classifying Roma communities as a national or ethnic minority, as a social group (what is known as an 'ethno-class' or 'underclass'), or as a transnational nation (Gheorghe, 2013, p. 81; Marushiakova-Popov, 2005; Vermeersch, 2003, p. 890). Advancing inclusionary or exclusionary objectives and practices, or putting more stress on socio-economic integration and/or ethno-cultural preservation both represent long-term challenges: a narrow approach that focuses more on addressing poverty would necessarily downplay ethno-cultural issues, while a minority rights approach would not only further ethnicise some strictly social issues but would be unable to effectively tackle them in the longer term. Consequently, given that more than 80% of

the Roma in Hungary are exclusively Hungarian-speaking, many would argue that the emphasis should be placed on socio-economic inclusion and combatting discrimination, in which context the idea of separate minority institutions would involve a degree of segregation from the mainstream society.

Finally, how those schools that are now run by MSGs perform on a variety of indicators remains an important question, affecting whether parents consider it worthwhile to enrol their children in them. The present analysis relies on the 2019 results of the National Assessment of Basic Competences—reading comprehension and mathematics—, which is carried out every school year on the last Wednesday of May in all primary and high schools in grades 6, 8 and 10 with all students in these grades participating. Results show that MSG schools are slightly below the national average in both mathematics (99.5%) and reading comprehension (99.3%). While Croat and German students are above the national average, Roma, Romanian, Serb and Slovenian schools are somewhat below.

5 Conclusions

Although the right of minorities to maintain their own cultural and educational institutions was already declared in the 1993 Minority Act in Hungary, this started to be put into practice within the country's NCA framework of MSGs only from the mid-2000s. The process was officially called 'institutionalisation', and involved mostly the establishment, maintenance and takeover of institutions from other providers by MSGs, creating functional autonomy. The process, especially in the 2010s, was facilitated by crucial legal and financial incentives that at first sight increased the cultural autonomy of minorities, but also entailed contradictions, including uncertainties around membership, and disproportional uptake among minorities in terms of institutional maintenance. Furthermore, a review of some cases suggests that minorities can only exercise their autonomy when they are allowed to do so. At the same time, one of the main questions concerns how these institutions perform, and whether they are still able to preserve minority languages and identities of those minority communities that are highly assimilated, the transmission of which has already been interrupted in many families.

Appendix 1: The number of educational institutions (kindergartens, schools) maintained by local and national minority self-governments, 2003–2022

Minority	*2003–2004*	*2005–2006*	*2007–2008*	*2009–2010*	*2011–2012*	*2013–2014*	*2015–2016*	*2017–2018*	*2022*
Bulgarian			2	2	2	2	2	2	2
Croatian	1	1	1	1	2	3	4	4	5
German	2	3	3	2	7	12	43	56	67
Greek			1	1	2	2	2	2	2
Polish		1	1	1	1	1	1	1	1
Roma					3	3	3	3	2
Romanian					4	6	6	7	7
Rusyn						1	1	1	
Serb					1	2	2	2	2
Slovak		2	3	3	4	6	7	7	7
Slovenian					2	2	2	2	2
Total	**3**	**7**	**11**	**10**	**28**	**40**	**73**	**87**	**97**

Appendix 2: Support for institutions maintained by national minority self-governments, 2003–2022 (million HUF)

Minority	*2003*	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*	*2011*	*2012*	*2013*	*2014*	*2015*	*2016*	*2017*	*2018*	*2019*	*2020*	*2021*	*2022*
Armenian	-	-	-	-	-	7.0	7.0	7.0	7.0	7.0	7.0	7.0	27.0	27.0	33.4	33.4	36.7	36.7	36.7	39.5
Bulgarian	4.2	13.0	33.0	12.0	15.0	15.7	19.2	19.2	19.2	28.6	30.8	30.8	50.8	50.8	72.8	72.8	80.1	80.1	80.1	134.7
Croatian	159.2	12.0	55.6	10.0	45.0	47.0	51.5	51.5	55.0	55.0	57.5	65.5	104.4	104.4	145.9	145.9	160.5	160.5	160.5	325.1
German	95.7	102.0	80.0	12.6	70.0	73.2	73.2	73.2	73.2	73.2	125.6	125.6	178.0	178.0	211.0	238.7	262.6	262.6	262.6	401.0
Greek	1.5	7.5	12.0	-	12.0	12.5	12.5	12.5	12.5	12.5	12.5	15.0	19.5	19.5	35.5	35.5	39.1	39.1	39.1	43.2
Polish	10.2	11.5	38.8	14.0	14.0	14.6	14.6	14.6	14.6	18.6	24.6	25.8	30.8	30.8	53.0	53.0	58.3	58.3	58.3	62.7
Roma	40.0	60.0	53.0	1.0	70.0	73.2	78.6	78.6	78.6	78.6	78.6	78.6	165.9	165.9	165.9	165.9	182.5	182.5	182.5	196.2
Romanian	1.5	27.0	21.1	18.0	16.5	17.2	17.2	17.2	17.2	19.7	19.7	27.5	40.8	40.8	48.0	48.0	52.8	52.8	52.8	92.1
Rusyn	-	2.0	4.4	1.5	6.0	6.3	7.8	7.8	7.8	7.8	7.8	7.8	13.5	13.5	35.3	35.3	38.8	38.8	38.8	54.9
Serb	25.0	15.0	27.5	6.0	27.0	28.2	32.2	32.2	42.2	54.7	54.7	54.7	69.2	69.2	114.0	114.0	125.4	125.4	125.4	180.0
Slovak	76.4	90.3	97.4	23.3	88.8	92.8	105.8	105.8	105.8	115.8	115.8	118.8	159.5	159.5	197.9	197.9	217.7	217.7	217.7	279.3
Slovenian	15.0	13.5	16.1	6.0	16.2	16.9	16.9	16.9	21.9	21.9	43.4	46.4	58.4	58.4	58.4	58.4	64.2	64.2	64.2	89.7
Ukrainian	-	-	-	-	-	8.0	8.0	8.0	8.0	8.0	8.0	8.0	14.5	14.5	21.4	21.4	23.5	23.5	23.5	25.3
Total	**428.7**	**353.8**	**438.9**	**104.4**	**380.5**	**412.6**	**444.5**	**444.5**	**463**	**501.4**	**586**	**611.5**	**932.3**	**932.3**	**1,192.5**	**1,220.2**	**1,342.2**	**1,342.2**	**1,342.2**	**1,923.7**

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Can Non-Territorial Autonomy Help to Enforce the Linguistic, Cultural and Educational Rights of the Roma?

Natalija Shikova and Immaculada Colomina Limonero

1 Introduction

Strategies of discrimination against and expulsion of the Roma persist in the policies of contemporary democratic and non-democratic countries, including those that respect human rights and those with challenges in that regard. The ongoing structural discrimination that the Roma face has not yet been properly addressed; the current minority rights framework (Kymlicka, 2008) and post-1990s minority regimes in Europe remain unhelpful for many Roma. The measures that have been proposed to date to address social exclusion and marginalisation in many cases are largely unenforceable; they tend to overlook the harsh living conditions, lack of access to public services, low level of education and the prejudices against and hostility towards the Roma. Moreover, they do not recognise diversity within the Roma community and instead see it as a homogeneous population (Pogány, 2006).

Due to social exclusion, embedded discrimination, a history of persecution and its cultural specificity, the Roma community has particular difficulties in achieving some socially established objectives. The priority areas are interconnected: for example, if the Roma are unable to receive an adequate education,

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they will struggle later to enter the labour market and so on. In that respect, Roma participation in social, economic and political life is a necessary and important factor in addressing the multiple and interconnected issues they face. Cultural participation is vital for all minority groups, but particularly for those who are marginalised, yet some authors argue that only political participation will address existing exclusion and serve as a tool for articulation of shared interests, including socio-economic and cultural needs (McGarry & Agarin, 2014). In the past, cultural activities of the Roma have often proved to be a powerful and successful expression of their lives and indigenous culture. Hence, the promotion of culture can be perceived as an effective instrument not only for affirming Roma identity but also for promoting inter-ethnic tolerance and integration in society. In most of the national strategies, culture is perceived as an important factor for the further emancipation of the Roma. Key documents indicate that Roma culture should be promoted as part of broader education policy because the cultural dimension is inextricably linked with the use of the mother tongue, which, in the domain of education, is a tool for social change. Difficulties in achieving socially established objectives can also be analysed in economic terms, where an enormous gap between the Roma community and the rest of the population persists.

This paper addresses the human rights violability of cultures commonly marginalised in society. In many cases, although human rights protection regimes are enacted for certain cultures, the measures do not encompass groups that are non-dominant and territorially dispersed. This paper highlights this situation with the example of the Roma in respect of their language, cultural and educational rights in Spain and in North Macedonia, and shows how the establishment and implementation of possible non-territorial autonomy (NTA) arrangements can help to overcome the discrimination that persists in those sectors of society. Theoretically and practically, there is no unique model of NTA since it is applied differently in different contexts and circumstances. However, NTA arrangements tend to help non-dominant and territorially dispersed groups secure representation and protect their linguistic and cultural rights.

The topic of this paper is not well explored. Scholarly debates tend to discuss the efficiency of NTA in countries that have already officially enacted NTA arrangements rather than opportunities to enact NTA in other contexts in which dispersed groups lack institutional protection. Hence, we believe there is a need to explore NTA beyond the status quo and examine its potential. This joint paper explores the potential applicability of NTA in Spain and North Macedonia, two countries with significantly different political and historical trajectories but with sound protection of territorial collectivities compared with dispersed communities. Moreover, in both countries, the Roma community: is scattered across the territory but lacks access to NTA arrangements that might be beneficial; has been excluded historically and lacks meaningful political representation; lacks institutional support to advocate for its interests *vis-à-vis* more structurally empowered groups. NTA may not be

the ultimate and only solution, but it can enable visibility and representation. However, to translate mere visibility into an active role in decision-making processes beyond symbolic representation, there is, arguably, a need for a broader approach with political arrangements built specifically for the Roma (with their active input in the process) and a legal framework that comprehensively addresses their needs. In any case, we consider that protection and promotion of Roma language, cultural and educational rights through NTA, together with other programmes designed to improve their socio-economic position in society, can help to overcome the historical marginalisation that prevails.

Methodologically, the paper builds upon existing theory related to NTA, analysing and drawing conclusions from civil society reports, the findings of regional and international organisations, national institutional data, media outreach and scholarly articles.

2 The Demographic, Socio-Economic and Political Position of the Roma in Europe

Roma people live in the territories of various nation-states and are subject to their sovereignty. Roma people speak various languages and exhibit different ethnic and cultural features. However, almost everywhere, they suffer from severe alienation at the hands of majority societies and, since they are in a non-dominant position, they are extremely politically vulnerable (Klimova Alexander, 2007). In the last 20 years, many authors have studied anti-Roma sentiment and highlighted the need to address it in the language and agenda of the European institutions.

According to the Council of Europe, 11–12 million Roma live in the territory of its Member States: the largest Roma population lives in Bulgaria (10.33%), followed by North Macedonia (9.59%), Slovakia (9.17%), Romania (8.32%), Serbia (8.18%), Hungary (7.05%), Turkey (3.83%), Albania (3.18%), Greece (2.47%) and Spain (1.52%) (Council of Europe, 2013). However, given that many Roma people are not registered—civil war, forced migration, expulsion and extreme poverty have made many Roma people stateless or left them without official documentation like birth certificates, identity cards or passports—populations are, arguably, much higher. Moreover, as mentioned, many countries consider the Roma to be a single ethnic entity, when in fact they comprise multiple groups including Arli, Barutčia, Džambazi, Gilanlia, Konopari, etc. (Pogány, 2006) and thus reflect complex, flexible and multiple identities (Petrova, 2003). Historically, their presence in Europe has been marked by nomadism as a means of both escaping mistreatment and discrimination and preserving their unique way of life (Iovită & Schurr, 2004).

When it comes to their socio-economic position, the Roma are considered at high risk of poverty in most central and eastern European countries.

However, reliable information on their living conditions and the characteristics of and reasons for their poverty remains scarce, fragmented and, as some authors have pointed out, anecdotal (Revenga et al., 2002). However, given that many Roma are not registered, they do not possess essential documents such as a birth certificate and they are not part of national census registers. This lack of legal recognition denies them a range of rights, from basic human rights (education, health care) and civil and political rights (voting) to social rights. For example, according to statistical data from various sources such as the United Nations Development Programme, the World Bank and the European Commission (European Commission, 2010, 2021; European Union Agency for Fundamental Rights, 2019; EU Roma strategic framework, 2020; UNDP, 2017; World Bank, 2019), Roma students spend half the amount of time in education that non-Roma students spend in education. In terms of health, assessments indicate that Roma people have poorer overall health than the non-Roma population (Ivanov & Kagin, 2014). Other discrepancies exist in, for example, participation in the labour market, where the Roma unemployment rate is at least 20% higher than the non-Roma population unemployment rate (Slay et al., 2014), despite efforts to improve access to the labour market (Civil Rights Defenders, 2017). These figures reflect the many difficulties that the Roma face and serve to underline the endemic discrimination and undereducation that, inevitably, lead to fewer employment opportunities. Educational challenges include lack of recognised qualifications, lack of skills training, poor or no command of the country's official language, lack of appropriate jobs and, on top of that, existing structural discrimination (Eurocities, 2017).

Historically, discriminatory and oppressive treatment of the Roma has marginalised them from mainstream European society and for a long time denied them access to available socio-cultural and political resources to improve their situation (Mišina & Cruickshank, 2020). The Roma continue to face structural weakness across Europe, illustrated by the fact that they still have not been successfully integrated into official political channels. This puts the Roma community in a precarious position of powerlessness and makes it vulnerable within European socio-cultural and political life (Petrova, 2003). The Roma community is bound by institutions whose rules they played no part in creating. The Roma have not claimed land rights or established a territorial state. Since they are territorially dispersed, the conventional interpretation of the principle of self-determination and autonomy does not apply since it can be exercised only by states or their administrative subunits. As a result, the Roma find themselves in a vicious circle of exclusion that endangers their rights and subordinates them politically (Klimova Alexander, 2007).

3 The Roma in Spain

History, Demography and Social Position

The word *gitano* means gypsy in Spanish, is a term that Roma people in Spain generally use to refer to themselves and is widely used in policy-making and academia, therefore it has fewer pejorative connotations than it does in other languages. The first records of Roma people coming to the Iberian Peninsula date back to the fifteenth century. Even though, initially, the Roma were well received, the first persecutions began in the transition between the fifteenth and sixteenth centuries. Since then, a whole series of orders, laws and policies have been implemented, with a clear discriminatory component.[1] It was not until 1878 that specific legislation on the Roma ceased to exist and they had the same duties and rights as the rest of the Spanish population (Laparra, 2009).

In 1943, during the Francoist dictatorship (1939–1975), a new regulation recommended vigilance and close control of Roma community activities. This regulation was not modified until Spain became a democracy in 1975. Although this history of persecution did not result in expulsion, physical elimination or the complete acculturation of the Roma population, its effects continue to be experienced today, despite the new regulations that exist in a completely different political framework. Indeed, the inequality that still affects a great part of the Roma community (health, housing, education, employment, etc.) is not unrelated to the discriminatory treatment they have received for centuries.

Anti-Roma movements are closely related to the Foucauldian tradition of the genealogy of racism as a biopolitical and structural phenomenon. This multifactorial and deeply rooted phenomenon in Spanish society requires careful analysis of texts, images, the media, regulations and other non-discursive practices such as architecture, urbanism, the educational system and the creation of segregated spaces. In Spain, the phenomenon of anti-Roma is not new and is complex. It implies economic factors (that compete with certain traits), religious factors (that contribute to the perception of the Roma as infidels or atheists), demographic and biopolitical factors (that seek to sedentarise them and inhibit their nomadism) and political factors (that relate to the creation of the nation-state). This is an interesting point since it shows that what is today known as *Spain* was born of a homogenisation project based on cultural, religious, linguistic and ethnic intolerance (elimination of the non-white, the non-Catholic and the non-Spanish-speaking). This process, which involved the expulsion of Jews and Muslims and an attempt to exterminate

[1] Such discrimination has been embodied in various ways depending on the historical moment, ranging from attempted expulsion and physical elimination to more or less enlightened acculturation. On 30 July 1749, under the rule of King Ferran VI, a *Great Raid* took place across Spain in which 9,000 Roma people were killed or imprisoned. To this day, the Spanish Roma organise events to commemorate the massacre.

the Roma people, was part of the creation of the Catholic Spanish nation-state (Abajo & Carrasco, 2004).

Considering the demographic data obtained from the Spanish official census held in 2007, the Roma community numbers about 800,000 people (Spanish Ministry of Labor and Social Affairs Report, 2007). This was an estimate, in the same way that the Council of Europe estimated in 2010 that there were 725,000 Roma people in Spain. We consider that, at the time of writing, there are around 1.1 million Roma people in Spain. Half of the Roma population in Spain lives in the south, 80,000–90,000 live in Madrid and Barcelona[2] and the rest are scattered throughout the country in communities. Most of the Roma community are young (few are older than 65) (Spanish Ministry of Health, Social Affairs and Equality, 2011), which, in demographic terms, means the Roma population in Spain has a very young structure.

However, on a state level, as well as on an autonomous community level, there is a lack of reliable official data on the Roma population, including not only their educational, social and health circumstances but also their access to housing or the labour market. This limitation exists largely because of the Law on the Protection of Personal Data (Organic Law 15/1999), which protects personal data, including information on ethnic origin. However, the law also inhibits the creation of new and apposite policies for the Roma.[3]

When it comes to the political and social participation of the Roma in Spain, we consider it to remain scarce. For example, at the time of writing, the Roma people have only four deputies in the Spanish Congress and none in the Parliament of Catalonia. This lack of representation affects public policies and reduces opportunities to enact new regulations that will support the changes needed to improve their situation.

Language and Culture

The language of this non-territorial entity is the main component of its identity, together with its religion, music and dance. In Spain, although the use of the Romani language is almost lost, a considerable vocabulary of terms remains in the Roma community, mixed with a variant named *Caló*, which is spoken by around 60,000 Roma people across the Iberian Peninsula (Spanish Ministry of Labor and Social Affairs Report, 2007). *Caló* uses the grammar of Castilian Spanish and the vocabulary of the Romani language. *Caló* is not protected in Spain because it is not accepted by any of the Spanish autonomous communities and it has no territorial base.

[2] The estimated Roma population in Catalonia in 2013 ranged between 80,000 and 90,000 people, according to data from Catalan Roma organisations (Fundación Secretariado Gitano, 2014).

[3] The non-governmental organisation SOS Racismo (2008) indicated that the case of the Roma is the most flagrant example of deeply rooted discrimination.

Most Roma people have abandoned *Caló* and speak the local language where they have settled. In fact, this is a phenomenon that affects the Roma community across Europe. For example, Catalan Roma speak the variant named *Caló Català*. In Catalonia, even within the same city, there are Roma people whose mother tongue is Catalan (the local language) and Roma people who speak only Castilian Spanish. Elsewhere, in southern France for instance, the principal Roma community speaks Catalan as its mother tongue.[4]

When it comes to culture, it is important to note that the *gitano* figure is an essential component of the Spanish national discourse, closely linked with the flamenco culture. Despite this, the majority of the Spanish population, even the Spanish Roma themselves, are ignorant of Roma culture. Moreover, Roma culture is absent from the educational curriculum and textbooks in Spain or, if it exists, the transmitted image is mainly a negative one, which consolidates discrimination in the educational field. Nevertheless, *gitano* culture is today experiencing a burst of cultural projects seeking to revive the historical memory of the Spanish Roma people, which could be considered a first step for the community to regain self-esteem after centuries of persecution and acculturation.[5]

Education

Besides improving the employment rate of the Roma population, education is the most effective way to break the vicious cycle of poverty and exclusion. In Spain, the Roma community gained access to school classrooms just 40 years ago, following Franco's death and the birth of the democracy. This aligns with the fact that the Roma population has higher levels of illiteracy and, due to the early age of marriage in Roma culture, poor school attendance. Today, the number of secondary school students is increasing, but they are still low compared with the general population. Also, as authors Abajo and Carrasco (2004) stated, the level of non-attendance remains high, which leads to academic underachievement, especially at the secondary school level. In January 2011, the European Union reported that, of all the minorities in Europe, the Roma had the highest school dropout rate. Among other actions, the report recommended implementation of policies that eliminated segregation of Roma children in Member State schools (European Commission, 2010). However, despite the fact that Roma students are often placed in specific schools or even in separate classrooms, the current Spanish educational system does not officially recognise school segregation on the basis of race,

[4] In Perpignan, the first written evidence of the Roma crossing to the Iberian peninsula dates back to 1415, when Perpignan was a Catalan city.

[5] This movement is led by young people who want to maintain their identity. Hence, different Roma organisations aim to empower the Roma culture, raise awareness and spread it to the general public as well as among the Roma community itself. One of the most remarkable is *Secretariado Gitano* (https://www.gitanos.org), a non-profit foundation that leads most awareness campaigns.

and hence new mechanisms and policies to improve the situation are lacking. This situation, which in some circumstances creates so-called 'ghetto schools', negatively influences the quality of education that Roma students receive and effectively prevents any opportunities for intercultural coexistence. The impact of this segregation on the right of Roma children to education is enormous and is manifest in low academic performance, school failure, early dropout, lack of socialisation with other non-Roma children, etc. In the long term, this represents a significant barrier to accessing employment, which feeds back into the cycle of exclusion (Abajo & Carrasco, 2004).

Current Policies Towards the Roma

In the case of the Spanish State, unlike other European countries, there is no specific anti-discrimination legislation. However, there are norms and principles aimed at the prohibition of discrimination at all levels and areas of the Spanish legal system. The fundamental rights recognised in the Spanish Constitution are the right to education (art. 27), the right to non-discrimination (art. 14), human dignity (art. 10) and the principle of equality (art. 1). The right to education is related to these fundamental rights. When referring to cases of discrimination in the judicial sphere, there is little anti-discrimination jurisprudence in Spain. For example, the applicability of an aggravating circumstance due to racist motivations is considered no more than circumstantial.

In the last decade, the Spanish State has developed the National Strategy for the Social Inclusion of the Roma Population. The competencies in policies addressing the Roma minority are the responsibility of the different autonomous communities. For example, in the case of Catalonia, the turning point was in December 2019 when the Catalan Government—with the support of Roma organisations, universities and civil society—pioneered a preliminary draft of a law that developed a key concept of 'inclusiveness' specifically for the Roma, which is still under examination. This preliminary draft aligns with international human rights standards, which, in terms of successful action in the political sphere and social impact, is currently a benchmark for other countries in the European Union. Considering the overall situation, even the current representation of Roma people in Spanish Congress (with two men and two women belonging to different political parties) we can consider it as some progress, because since May 2019 this is the first time in Spanish history Roma people to enter into this institution, and many see this as a great opportunity to improve the social image of the Roma.

One forthcoming initiative is the establishment of an autonomous body named the Catalan Roma Institute (*Institut del Poble Gitano de Catalunya*), not only as a reference institution for transversal policies, dissemination, promotion and research linked to the Roma minority, but also to serve as a guarantor for the implementation of new public policies. The initiative is still under discussion, but it is the first of its kind in Europe and seeks to

offer guidelines on regulations and to enhance the participation of the Roma in governmental decisions. The Government of Catalonia has committed to defining specific public policies and a new legal framework for the groups vulnerable to social inequalities, such as the Roma minority, to improve their living conditions and equalise compliance with their rights with the rest of Catalan society. One initiative aligned with the creation of the Roma Institute is the Integrated Plan for the Roma People in Catalonia (Generalitat de Catalunya, 2018), which wascreated in 2017. Due to its popularity, it has been improved, renewed and extended until 2023. Under the umbrella of the plan, 100 different actions are currently being implemented. One noteworthy action of the Integrated Plan is a collaboration with the University of Barcelona, which has jointly initiated voluntary training courses for its teaching staff about the history, traditions and socio-educational aspects of the Roma people. This plan also offers Roma students academic accompaniment and supports both in the enrolment process and throughout their degree. In the 2021–22 school year, 200 students (mostly male) benefited from the plan and, in this sense, the Integral Plan has boosted the access to education of the Roma people. Within the university community, Roma students are mostly associated with the Roma University Network. Created in 2016 at the Autonomous University of Barcelona, the network was designed as an information channel and to offer mutual support. The network has since spread to include all Roma students in the country and there are plans to expand to other countries.

4 The Roma in North Macedonia

History, Demography and Social Position

Roma people live throughout the territory of North Macedonia and are considered to be a homogeneous group. According to the last census (2021), they represent 2.53% of the total population (1,836,713). However, as in Spain, the lack of reliable administrative data suggests that the actual Roma population is much higher than the official figure, with some commentators estimating that they represent closer to 10% of the total population. Moreover, it should be noted that North Macedonia is home to nearly 1,700 refugees, many of whom are Roma people who fled because of the Kosovo conflict in 1999, and around a third of them still do not have resolved legal status (Civil Rights Defenders, 2017).

The trend in North Macedonia is not much different than other countries in Europe, with low inclusion of Roma people across all social sectors (Council of Europe, 2012). Although moderate progress is being made towards the equitable representation of all ethnic communities in the public domain, the Roma are still underrepresented. In public institutions, for instance, only 1.10% of the total number of public sector employees are Roma, and representation in local self-government administrations is even lower. The unemployment rate of the Roma population is high compared with the unemployment rate of

the non-Roma population. Official figures highlight not only the difficulties of integrating Roma people into the labour market, but also the challenges of getting reliable data about actual unemployment rates (Civil Rights Defenders, 2017). According to some statistics, the overall unemployment rate among Roma people in North Macedonia is 53%, in comparison with 27% of the general population, and the unemployment rate for Roma women increases to 70% in comparison to 61% unemployment rate of the non-Roma women (European Roma Rights Centre, 2013).

Language and Culture

According to the Law on Primary Education in North Macedonia (beyond the Macedonian language and its Cyrillic alphabet), education should be conducted in the language and the alphabet of the community if that community speaks a different language. However, in practice, the Roma community is educated in the Macedonian language. The Law on Primary Education guarantees that the course *Romani language and culture* can be studied as an elective (from the third grade until the end of primary education, with up to two classes per week), but often this regulation is ignored in practice and sometimes the option is not even available for Roma students. Moreover, there is a shortage of qualified Roma teaching staff in primary and secondary schools, yet qualified Roma teachers cannot find employment in primary and secondary schools (Minority Rights Group International, 2018). Apart from those issues, programmes for educating Roma children in primary education are still under development.

The Roma are a stateless, non-territorial people without a native literary tradition. Although the Romani language can be considered indigenous across much of Europe, many Roma people speak distinct dialectics (Friedman, 1999), which makes it impossible to create a single Roma language. In fact, many Roma people do not speak Romani but Macedonian, Albanian and Turkish languages. Nevertheless, some standardisation has been attempted and the Roma language has been introduced as an elective course at the faculty level (National Roma Inclusion Strategy,).[6]

North Macedonia has a solid legal framework and broad institutional setup for the protection and promotion of the Roma culture. The Law for the Rights of the Communities that are less than 20% from the Population in the Republic of North Macedonia (2020) stipulates that members of the communities can organise and establish associations of citizens and foundations for the realisation of their cultural, educational, artistic and scientific purposes. There is a Law on Culture and the National Strategy that sets goals and priorities for cultural development, assigning financial and administrative measures for their realisation. Under this law, budget funds should be used for the

[6] From the academic year 2012–2013, the Romani language has been offered as an elective course at the state university Faculty of Philology in Skopje.

affirmation and promotion of the culture of all communities, and that competence is assigned to the Directorate for Affirmation and Advancement of the Culture of the Members of the Communities. Additionally, several local radio stations and two local television stations in the country broadcast programmes in the Romani language, some of which are included in the programme of the national radio and television service (Macedonian Radio Television—MRTV). However, the Roma culture is mostly nurtured and presented by the non-governmental organisations (NGOs), including amateur folklore societies, music groups, theatre and others. Such NGOs receive little or no state financial support (the distribution of state support is rarely transparent). An additional disadvantage is that the Roma initiatives compete for budgetary support on an equal footing with other national institutions, which in practice means they have little or no chance of attracting any funding (National Roma Inclusion Strategy, 2014–2020). Hence, considering the circumstances, many do not even apply for funding. At the local level, some municipalities promote in their annual programmes implementation of programmes for development and promotion of Roma culture, but only to a small extent. Given the often negative presentation of Roma culture by the media and in educational material, a large part of the Roma community thinks not only that their culture is presented inaccurately, but also that their culture is presented in such a way as to intensify existing prejudices (National Roma Inclusion Strategy, 2014–2020), and can cite examples to prove it.

Education

Reports and surveys published by international and domestic civil society organisations and state institutions show that in North Macedonia there is a difference in the level of education and literacy between the Roma community and the rest of the population (European Commission, 2021; European Roma Rights Centre, 2013; Institute for Human Rights, 2013; Minority Groups Rights International, 2018; State Statistical Office, 2022; UNDP, 2017; World Bank, 2019). The Constitution and the Law on Primary Education guarantee the right to education under equal conditions. However, in practice, Roma children still suffer from social stigma, discrimination and segregation and face barriers in their access to regular and quality education (International Minority Rights Group, 2018). For example, in the 2020–2021 school year, only 347 Roma children aged 6 were enrolled in schools, out of 186 649 students, which is less than 1% of the total number of children enrolled in school for the first time. In kindergartens, only 90 Roma children received subventions from public funds. The annual dropout rate per grade for Roma children in primary education was 6% and for secondary education was 4%. There is no system and baseline data for the reintegration of children who have dropped out. Additionally, concerning the situation with the Covid-19 pandemic, the majority of Roma children did not have access to technical equipment to continue their education through distance learning (European Commission, 2021; State

Statistical Office, 2022). Although the percentage of Roma students enrolled in higher education institutions has increased since 2019 (42% to 48% of the Roma youngsters have enrolled in high school), segregation in school remains high with Roma children most often separated in the education system (European Commission, 2021): either they are placed in a separate classroom or they are required to sit at the back of the class (Cuculoska & Doda, 2016; Doda & Dzeladin, 2016; Institute for Human Rights, 2013).

The difficulties that Roma students encounter stem from their parents' low level of education and from low socio-economic status. These two factors have a demotivating effect, producing low interest in school activities, poor grades, inability to attend classes regularly and dropout from school. Moreover, there appears to be little institutional interest in improving the situation. However, perhaps the main reason why Roma children lag behind in studying the basic material, especially reading and writing, is not knowing the Macedonian language. Most often this is a consequence of not attending preschool because there are not any where they live, they cannot afford them or they are rejected for various reasons (Cuculoska & Doda, 2016; Institute for Human Rights, 2013).

Current Policies Towards the Roma

Although the Roma are officially recognised and explicitly mentioned at the national level as an ethnic community, they are still largely excluded from society. At the national level: the Ministry of Political System and Inter-Community Relations advances and monitors all aspects related to the rights of the communities; the Inter-Community Relations Committee represents all the communities, aims to advance their rights and manages the distribution of public funds and the Agency for Community Rights Realisation protects the rights of the communities that are less than 20% and seeks to ensure equal focus on all communities regardless of their position in society and level of political power. In terms of political participation, there is one Roma representative in parliament at the time of writing, although there are more Roma councillors in municipal councils. It is interesting that the municipality of Shuto Orizari has a majority of Roma residents, and the mayor and some councillors are Roma. Some sources point out not only that Shuto Orizari is the only municipality in the world where the Roma are the majority[7] but it is also the only municipality in the world where Romani[8] is an official language, next to Macedonian. The protection of members of non-majority communities in North Macedonia is also regulated at the local level, through a law on local self-government. This law outlines ways that citizens can participate directly

[7] See more at https://sutoorizari.gov.mk.

[8] In 2020, the Roma got support from the government in the standardisation of the first grammatical dictionary of the Romani language comprising the dialects spoken in the Balkan Peninsula.

in local self-government and defines the individual or collective involvement of the inhabitants of the municipality in decision-making. Citizens can submit proposals and petitions to the council as ways to achieve participation in local affairs. This seems like a positive option given that most of the problems related to exclusion of the Roma are the responsibility of the local government (education, health care, culture, etc.). Within this diverse political landscape, and despite the established legal and institutional network, the Roma population in North Macedonia remains the most vulnerable minority and continues to struggle with institutional discrimination and social prejudice.

5 NTA and the Roma People

NTA is a statecraft tool or policy instrument applied in countries that are ethno-culturally diverse (Salat, 2015). NTA is a generic term, not a specific model, therefore it refers to diverse theories and practices as well as a variety of related interpretations. Those related concepts, envisaging similar elements (personal, cultural, extraterritorial, etc.), most commonly refer either to the main principle (personal) or to the content of the autonomy (cultural) (Osipov, 2015, 2018). NTA assumes elected institutions to administer minority cultural-educational affairs and represent often small and territorially dispersed communities (Malloy, 2015). This model can be contrasted with theories of national autonomy that require a territorial base for autonomous national communities. However, NTA requires no territorial base for autonomous communities to be organised as sovereign collectives, no matter where they reside within a multinational state (Nimni, 2000). NTA arrangements work best in cases where minorities or the beneficiaries are dispersed among the majority population and territorial autonomy cannot apply. In that sense, the implementation of NTA models represents a practical solution, namely, NTA can be extended if territorial autonomy is not applicable. But the same applies when territorial autonomy is not applicable due to political factors or power imbalances beyond demographic and geographical factors. NTA has certain advantages over territorial autonomy since it is based on the principle of identity and associated rights (the personality principle), where territorial autonomy is based solely upon the principle of territoriality (Lapidoth, 1997).

NTA can enhance a group's ability to self-govern matters relevant to group members. Representation and autonomy go hand in hand, that is minorities have views and interests related to the polity as a whole as well as ideas and concerns relevant only to themselves. Minority inclusion requires not only that members of minorities can 'have their say' through mechanisms of representation (shared rule) on matters related to the polity as a whole, but also that they have a significant measure of control (self-rule) or self-governance over decisions that affect them primarily (Henrard, 2005). However, NTA arrangements tend not to isolate groups to run their internal affairs, meaning

it is sometimes difficult to distinguish between self-rule and shared-rule initiatives (Kettley, 2001). Because the shared rule relates more to consociation than to autonomy, some authors point out that self-rule has more obvious implications for the study of NTA (Coakley, 2012). However, shared rule or shared decision-making (co-decision) is no less important. Therefore, when studying NTA, it is important to examine the competencies of the relevant bodies as well as the nature of the wider political system in which they operate. Minorities' rights to participation can be secured if NTA arrangements allow their voice to be heard on issues connected with their identity, both through control of their own affairs and through participation in the decision-making processes at the state level (Prina et al., 2018). But can we justify talking about autonomy in NTAs, bearing in mind that autonomy is a construct of state and that power is shared by states defined by territoriality rather than by nations? There is a need to explore how in different surroundings power that is territorial in nature can be shared in NTAs and identify which conditions and institutional practices contribute to reaching the desired outcomes (Salat, 2015).

NTA strategies comprise minority policies that involve diverse arrangements and practices, mostly implemented in central and eastern Europe (Nimni et al., 2013). Personal, cultural and functional autonomy can be seen as modules of NTA. *Personal autonomy* is based on personal choices among arrangements that exist in the legal framework. In institutional terms, personal autonomy can be seen as an opportunity to create associations or legal bodies to protect or improve minority interests (Suksi, 2011). *Cultural autonomy* can be understood as self-rule by a culturally defined group seeking to maintain and reproduce its own culture (Eide, 1998). Cultural autonomy and management are allocated to a group that is culturally rather than territorially defined, and the scope of self-management is limited to cultural aspects. Thus, cultural autonomy supposes that some institutions are created under the freedom of association that can enable a community to take action as a group (Suksi, 2008b). *Functional autonomy* is a pragmatic approach and an organisational option to the promotion of rights of a minority population. That is related to the provision of adequate public services to a minority population. That is when the state transfers particular public functions and public powers to a private form of minority organisation (Suksi, 2008a).

Here, NTA is the broadest denominator; it is not so much a particular model but a generic term that refers to different practices of minority community autonomy that do not entail exclusive control over a territory (Nimni & Pavlovic, 2020). Traditionally, NTA comprises not only a mix of different arrangements—such as consociationalism and national cultural autonomy—but also forms of representation that de-territorialise self-determination (Nimni, 2015).

Examples of NTA and the Roma

The accommodation of minorities through mechanisms of territorial and NTA is regaining prominence today, and that is visible both in political theory and in comparative politics (Nimni et al., 2013). The relevant regulations can be found in national constitutions and in specific regulations that grant cultural autonomy (Smith, 2013). An overview of existing practices reveals the wide variety of NTA forms determined by the political system, the number of minorities and their position within the society.

Perhaps the most prominent example of a country that institutionally enacts NTA is Hungary, where minorities (nationalities) are dispersed, making territorial autonomy infeasible (Dobos, 2016). Nevertheless, historical communities—those present in Hungary over the past 100 years—have minority status. Some 13 ethnic nationalities enjoy minority rights, based on the use of their language and as defined in the Act on the Rights of Nationalities of Hungary (2011, art. 22), and among them is the Romani/Roma language. These nationalities enjoy educational, cultural and media rights and can self-govern their education. Indeed, the state supports the use of their languages in national public education, and Roma children can receive education in their first language. Roma education may also be delivered in Hungarian, however, based on local opportunities and needs, including that there are at least eight children, the institution shall also make available teaching in the Roma language. The local self-government has the right to arrange supplementary education when there are fewer than eight children (Act on the Rights of Nationalities of Hungary, 2011, art. 25).

Slovenia is another example of a country where NTA arrangements have been made for the Roma community. The Slovenian Constitution (1991) recognises Hungarian and Italian national communities, but the Roma community has a special status as regulated by law. In some areas, the Roma enjoy full cultural autonomy and can elect a national minority council. Unlike the Italians and Hungarians, the Roma are dispersed throughout Slovenia, and those municipalities with the biggest established Romani populations (around 20) need to elect one Roma councillor (Act Amending the Local Self-Government Act, 2018). The 2007 Roma Community Act established the Roma Community Council of the Republic of Slovenia, a special body tasked with representing the interests of Slovenian Roma in relation to state bodies. The community council comprises 14 representatives of the Roma Union of Slovenia and 7 representatives of elected municipality councils (Roma Community Act, 2007). According to this legislation, persons belonging to the Roma community have access to special rights (Council of Europe, 2018).

The examples provided above are far from perfect. The details of individual NTAs are determined by the political system and the status of minorities within that system. As such, in Slovenia, only three minorities enjoy NTA because they are legally recognised, whereas other minorities are outside of the system. Hence, Roma people who have traditionally lived in Slovenia and those who

arrived following the dissolution of the Socialist Federal Republic of Yugoslavia are seen as distinct, and that distinction makes rules for protection unclear. Although the Roma community has access to special rights, the implementation of legislation is unsatisfactory and, at the time of writing, the authorities have not yet addressed the situation (Council of Europe, 2018). Moreover, the Roma Community Council is often regarded as divisive and unrepresentative of the whole Slovenian Roma community (FRANET, 2021), and its competencies are often limited and its functionality in practice is problematic for financial reasons (Komac & Roter, 2015).

In Hungary, NTA is reserved for cultural or educational issues, where minorities can obtain consultative roles or achieve representation through different forms or modalities (such as minority self-governments (MSGs), national councils, etc.). Thus, minorities: can enjoy functional and financial autonomy in the establishment, running and management of institutions of an educational and cultural nature; have the right to be consulted; can propose decisions; can obtain views and opinions but do not have decision-making powers that will allow significant self-government. The question is whether the objectives of the minority law and MSGs that focus on preserving minority languages and cultures also have the potential to address the basic needs and interests of the Roma who predominantly speak Hungarian but who are socially and economically marginalised (Vizi, 2009). During the creation of the minority law (in 1992), the principal idea was to distinguish the Roma from other minorities on the basis that their language and other cultural aspects were less important than their social, ethnic and identity issues. Hence, it was argued that the Roma's right to self-organisation and empowerment was a necessary but insufficient condition to overcome their social problems (Molnar Sansum & Dobos, 2021). Additionally, lack of clarity about their ethnic identity has often stimulated debate about the complexity of their belonging and so-called 'ethno-business'. Other considerations concern the relatively weak competencies and high dependence of the Roma MSGs on central and local funding, which questions their ability to influence and create policies capable of improving their socio-economic position.

In summary, this autonomous model has flaws derived from the general deficit of legitimacy of the minority organisations, lack of political integration of the Roma and considerable differences in ethnic identity within certain minority groups (Dobos, 2016).

These examples from other countries highlight that NTA, cultural autonomy and minority rights are not always enough to address the needs of the Roma, mainly because (considering their socio-economic position) they are not well integrated into societies and remain socially and economically marginalised. It should also be noted that special laws and the practices that stem from them are often blind to the differences between various groups. Arguably, these differences make it impossible for a single law to provide the same level of cultural autonomy across all minority groups (Molnar Sansum & Dobos, 2021). The Hungarian one-size-fits-all approach makes it hard to

translate a group's visibility into voice given that, for instance, the institutional constraints that the Roma face are effectively beyond their control (McGarry & Agarin, 2014). However, in Romania, beyond the cases of the institutionalised forms of NTA (applied towards the Roma) mentioned above, some authors consider that, even without set legal, political and institutional safeguards, Roma people have a special or unique legal order. That legal order is based on the personality principle, and it is effective. It illustrates that official recognition and authorisation by the state may not always be a necessary condition for the functionality of a particular autonomy arrangement, and that needs to be taken into account given the Roma's traditional mistrust of mainstream institutions and their low level of participation in local and national policies. This means that NTA can exist as an empirical reality, tacitly recognised by the official state, but those practices of unofficial and tacit NTA are often neglected in reality. Separate legal status (as *de facto* NTA) has deep roots in Roma history, their distinctive worldview and moral code, and the way of life that most Roma people prefer (Salat & Mișcoiu, 2021). However, to pursue their interests *vis-à-vis* structurally more empowered majorities, the Roma need more institutional support (McGarry & Agarin, 2014).

Can NTA Help to Enforce the Linguistic, Cultural and Educational Rights of the Roma in Spain and North Macedonia?

With regard to the realisation of the Roma's education, language and cultural rights in Spain and North Macedonia, a variety of negative practices and difficulties prohibit adequate minority protection in both cases. Despite very different political systems, the inherent discriminatory practices are similar. In both countries, NTA is not set within the legal and institutional framework. In both countries, protection of different minority groups is realised on a territorial level with little room for non-territorial entities. Spain has established autonomy arrangements, and the autonomous units protect territorial groups. In contrast, North Macedonia has implemented transformative changes that, in practice, represent a consociational system of power sharing that, at least theoretically, can provide better representation and protection of communities. However, the system is based on fixed quotas (numbered thresholds for protection of rights), leaving the Roma with little chance of participating in power-sharing arrangements. Rights are mainly realised at a local level through minority groups within local self-government units, which are managed by majority groups, which means that the smallest groups have little opportunity to participate and influence. In both countries, in two different political and institutional setups, smaller groups thus struggle to acquire proper and adequate protection for their language and culture. Minorities still face tremendous discrimination in the field of education, which later diminishes their chances of integration. Even with legal frameworks in place that follow contemporary standards and a solid institutional setup, the Roma remain highly institutionally discriminated in both countries.

As for the potential of NTA to enforce the Roma's linguistic, cultural and educational rights, there is no doubt that NTA arrangements can in essence help minorities conduct cultural or other activities without territorial limitation (Vizi, 2015). However, the fact that the Roma have no recognised territorial base creates a legal barrier for them to enjoy and advance their rights or to have their grievances heard. In that sense, NTA seems to be the most suitable concept as it offers to stateless people political participation and realisation of their connected rights without disturbing the territorial stability of the existing states (Klimova Alexander, 2007). Considering the above analysis, and following our discussion of the other countries with (official or unofficial) NTAs in respect of the Roma, we consider that NTA arrangements would help to secure the Roma's cultural, linguistic and educational rights. However, as mentioned, NTA comprises a range of arrangements designed to suit local conditions, accommodate particular groups within the respective political framework and create relevant institutions. Beyond mere symbolic representation, the elected NTA bodies in Spain and North Macedonia should have a proper say in decisions addressing the exclusion of and discrimination against the Roma, and should be actively engaged in educational and cultural affairs. For example, the Catalan Roma Institute could serve as a type of NTA body that might help to address issues concerning representation and participation in decision-making in educational and cultural affairs. In that respect, special action plans could benefit society in general and the Roma community in particular. Initially, that should involve creating educational curricula and training the teaching staff to address socio-educational aspects of the Roma people without neglecting their history, language and traditions. NTA models designed to complement other political measures in place would help to overcome the prevailing exclusion and discrimination. Such complementary NTA—irrespective of its possible, mainly practical constraints (observed in other countries and in other political and social contexts)—would not only benefit the Roma people, but also help to protect and promote their distinct language and culture. Complementary NTA would also help to develop Roma education and in turn support other policies aimed at overcoming their unjust and unfavourable situation.

6 Conclusion

In recent years, the Roma have become increasingly important on the European agenda, featuring in policies related to social inclusion and the promotion of equal treatment. In 2020, the European Commission created a new framework of action—EU Roma strategic framework for equality, inclusion and participation for 2020–2030 (EU Roma strategic framework, 2020) to support the Roma people, aligned with the European Agenda 2020, and the European Parliament urged the Member States to define and implement actions in the areas of education, work, housing and health, to combat discrimination, racism and xenophobia.

This paper has analysed Roma populations in two cases to illustrate that, despite existing arrangements for the protection of minority groups, the smallest communities, like the Roma, still exist on the margins of society. Due to embedded exclusion and discrimination, few language skills in the societies where they live and lack of access to education and job opportunities, the Roma community faces particular difficulties. As a non-territorial entity, the Roma have few rights and lack awareness of the rights they do have, which only compounds their traditional distrust of and nonparticipation in public institutions.

This paper highlights the existence of persistent and structural discrimination in Spain and North Macedonia—two countries representing an older and a newer democracy, an EU Member State and a candidate for European Union membership—both of which are Member States of the Council of Europe. We believe that in both cases (and in general), NTA can help to overcome the cycle of exclusion that faces minority groups since it can at least secure a form of representation and visibility. Adequately crafted, context-specific NTA arrangements can give some voice to territorially dispersed entities and entities that lack institutional support.

However, NTA is no panacea: not all NTA institutions successfully represent the interests of the groups they act for, sometimes making minority participation in decision-making processes limited at best (Molnar Sansum & Dobos, 2021). Yet, NTA should not be discounted. A tailor-made approach (unlike a general approach) applicable only to the Roma community that suits local conditions having in mind the respective political frameworks, can contribute towards success in securing the Roma's cultural, linguistic and educational rights. NTA models need to be specifically designed to complement other political measures for representation and decision-making, in order to be capable to properly address the exclusion and discrimination. Concerning the Roma, there is a need in Spain and in North Macedonia for programmes and complementary NTA institutions empowered to protect Roma culture, language and educational rights that will comprehensively address their social issues, including the high rate of unemployment, social deprivation, poverty and embedded prejudice.

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