

Language Rights in Education in Slovenia (2012)

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1. The Importance of Language in Nation-Building in Slovenia

The Slovenian language⁴ not only played a crucial role in the historical process of Slovenian nation-building but it is still considered one of the foundations of national identity. Many Slovenians are firmly convinced that ‘it was their distinct language that helped them become a nation and preserve their distinct national identity. Consequently, any threat to their language was, and still is, perceived as a threat to the nation itself.’ (Roter, 2003, p. 236)⁵

Before the establishment of the Slovenian nation-state in 1991, Slovenian nation-building was based mostly upon the Slovenian language, which enabled both the cultural and national homogenization of Slovenians and their ethnic differentiation from neighbouring ethnic groups and nations. At that time, the nation-building took the form of attempting to promote the Slovenian language and institutions in a limited territory within the states in which Slovenians lived. During the Springtime of Nations (1848), language became a fundamental issue of politics in the Habsburg Empire because it was linked to the issue of national emancipation, Slovenians drafted their first political programme which had the goal of a united Slovenia (at that time the Slovenian nation was politically divided in separate regions). In order to achieve this, ‘the programme called for Slovenian to become the language of education and public administration. The language thus became the reference point for the political mobilization of Slovenians, as well as the source of such a mobilization, for it was out of the perceived or actual threats from the nationalism of neighbouring nations to Slovenian national identity (based upon the Slovenian language) that Slovenians entered the process of state-formation’. (Roter, 2003, p. 216)⁶

After the collapse of the Austro-Hungarian Empire at the end of the First World War, Slovenians joined Yugoslavia⁷ because they believed that they could, in this way, better protect their distinct national identity and hence their language and culture. However, although the Slovenian language began to be used at all levels of public communication, it was soon (under a centralist doctrine

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⁴ Slovenian is an Indo-European language and belongs to the Western subgroup of the South Slavic branch of Slavic languages. The earliest known examples of a written Slovenian dialect are from the *Freising manuscripts*, which have been dated to somewhere between 972 and 1093. Slovenian emerged as a literary language in the middle of the 16th century thanks to the works of the Slovenian Protestants who wrote and published the first Slovenian books (including a translation of the Bible). Today, Slovenian is the official and state language of the Republic of Slovenia and the native language of approximately 2.4 million people: about 1.85 million of them live in the Republic of Slovenia which has a population of 1,964,036, of which 83.06% are Slovenes (Census, 2002). The official data available from census of population 2002. The next census in 2012 was register-based and does not contain information on nationality and Slovenian as a mother tongue.

⁵ According to this conviction, for more than one thousand years the Slovenian language was threatened by German political hegemony and its accompanying linguistic expansion. After the collapse of the Austro-Hungarian Empire at the end of the First World War and the voluntary entrance of Slovenians firstly into the newly established Yugoslav state and after the Second World War into the Socialist Federal Republic of Yugoslavia, it was threatened by Serbo-Croatian, and especially, in one third of the national territory, which was occupied and annexed by fascist Italy, by Italian (the use of the Slovenian language was forbidden and severely punished, even personal and family names Italianized, etc.). Today, some believe that in the independent nation-state Slovenian is threatened by English.

⁶ Although the aim of this political program was not achieved, the consequence of the 1848 Revolution was a ‘greater emphasis on the equality of nations within the Habsburg state. This also brought about certain linguistic rights for Slovenians: for example, the 1849 reform concerning secondary education made Slovenian an obligatory subject for Slovenian pupils and the official national gazette was to be published, alongside nine other languages, also in Slovenian. These measures were of great importance since the Habsburg state thereby effectively adopted Slovenian as the name of both the language and the nation’ (Roter, *ibid.*, p. 216).

⁷ Since approximately one-third of Slovenian speakers remained outside the borders of the new Yugoslav state (in Italy, Austria and Hungary), they continued to be threatened with linguistic assimilation.

espousing a single Yugoslav nation) replaced in the military and other state institutions by Serbo-Croatian.

After the Second World War, Slovenian again gained the status of an official language in Slovenia, that is, in one of the republics of the second (federal) Yugoslavia, and it was also one of the state languages of the Yugoslav federation. 'In practice, however, Serbo-Croatian retained its dominant position and not much effort was made to overcome its disproportional use in federal institutions. Slovenia's increased dissatisfaction with the use of languages in the Yugoslav federation was one of the important indicators, as well as causes, of Slovenian dissatisfaction with the Federation itself. The fate of the Slovenian language was described (and popularly perceived) as "a metaphor for the fate of the Slovenian nation", and the only solution for ensuring the existence of the nation and its language was identified in the form of an independent Slovenian nation equal to other European nations' (Roter, 2003, p. 222). This widespread conviction that the preservation of the Slovenian language and national identity within the Yugoslav federation was threatened was one of the important arguments in the call for the 1990 plebiscite in which the population opted for the political independence of Slovenia by a conclusive majority.

2. The Formal Recognition of the Various Languages in Slovenia and Their Status

The Republic of Slovenia has adopted the language spoken by the majority.⁸ Therefore Slovenian is the official language, that is, it is the language of government, schools, bureaucracy, and so on, just as many other countries have done (Kymlicka, 2001). Slovenia has also expressed a particular interest towards the Italian and Hungarian national minorities and their languages, because these two minorities have been constitutionally recognized (as 'autochthonous' national minorities). Special language and other minority rights are granted to the Roma minority as well, by the The Roma Community Act (2007) that regulates 'the status and special rights of the Roma community', as required by the *Constitution of the Republic of Slovenia* (adopted in 1991),⁹ and other documents.¹⁰ Other languages spoken in Slovenia such as: Croatian, Serbian, Bosnian, Macedonian, Albanian and German do not have the legal status of minority languages. The relevant international instruments ratified by Slovenia¹¹ are also interpreted as not protecting, at least not directly, such minorities and their languages.¹² However, Article 61 of the *Constitution of the Republic of Slovenia*, acknowledges 'to everyone the right to freely express his adherence to his nation or national community, to cultivate and to express his culture and to use his language and script' (2003, p. 56).

⁸ In Slovenia, almost 88 percent of the inhabitants speak the official language, Slovenian, as their mother tongue (Census, 2002).

⁹ Art. 65, Constitution of Republic of Slovenia (2003): 'The status and special rights of the Roma community living in Slovenia shall be regulated by law'.

¹⁰ In 2004 *Strategy for the Education of Roma in the Republic of Slovenia* was adopted and in 2011 supplemented. Strategy 2011 retains all the positions, principles and objectives as reflected in the Strategy from the 2004, but adds new goals as well (e.g. the importance of education in the earliest period of the system and equal opportunities for all preschool children, the gradual integration of all children in education before starting school, children who were not included in the institutional preschool education should be mandatory included in the free program for 5 - year-olds with the aim of socialization and building positive self-image and learning the Slovene language as a first foreign language (2011: 7). Revised version was prepared with a view to the review and assessment of implementation of Strategy 2004 to propose solutions and actions that should enable more successful integration of children of the Roma minority in the education system. Furthermore it was necessary to supplement the Strategy because in the period 2004 – 2010 many documents relating to regularize the situation of the Roma minority in Slovenia were adopted (e.g. The Roma Community Act, The national action program for the Roma for the period 2010 - 2015), provision of education for the Roma has already been introduced in some laws in the field of education and in some other strategic documents in this field (e. g. Lifelong-learning Strategy in the Republic of Slovenia) (2011: 3 – 4). The Strategy (2011) exposes particular attention to the issue of language (both Slovenian and Romany) – e.g. introduced Roma assistant, which would alleviate the poor knowledge of the Slovenian language (Objective No. 2), the introduction of Romany language as an optional subject in elementary school, learning the Slovenian language (Objective No. 3) etc.

¹¹ Slovenia signed (1997), ratified (2000) and implemented (2001) the *European Charter for Regional and Minority Languages* (1992). Before this, Slovenia also signed (1995), ratified (1995) and implemented (1998) the *Framework Convention for the Protection of National Minorities* of the Council of Europe.

¹² By signing the *European Charter for Regional and Minority Languages*, the Republic of Slovenia declared that the Italian and Hungarian languages are considered regional or minority languages in the territory of the Republic of Slovenia and, in accordance with Art. 2, para. 2 of the Charter, the Republic of Slovenia applies the provisions of Part III of the Charter to these two languages. In accordance with Art. 7, para. 5, of the Charter, the Republic of Slovenia should also apply the provisions of Art. 7, para. 1 - 4, also to the Roma language.

This very broad constitutional right (especially in international comparisons) is perhaps¹³ a consequence (or a 'relict') of a similar right found in the constitution of the former Yugoslavia, guaranteeing to all 'constitutive nations' of Yugoslavia their linguistic rights in the whole federal state. But now, in our Constitution, which this article refers to this right is guaranteed to all persons, regardless of their nationality or ethnicity. Unfortunately, it is not taken seriously by the authorities, not even by legislators, nor by legal scholars – especially in relation to the 'non-recognized new minorities' (Serbs, Croats, Bosniaks, etc.). They are trying to minimise its meaning in two main ways; firstly by trying to reduce it to a supposed explicitly 'individual' right (in comparison to 'collective' minority rights – although the right to speak with other people could hardly be reduced to such an extent), and secondly, by declaring it (without any justified reason) as a right limited to the private sphere of life and excluded from the public sphere of life. Just the opposite is true, this right is conceived (and written in the Constitution) as a universal right without any limitation.

This attempt to limit the right, stemming from Article 61, to the private sphere of life is based on the totally wrong understanding of Article 62 which (supposedly) regulates the use of language in the public sphere. In reality, the relation between these two articles is the relation 'rule – exception' in Article 61 there is a general rule (the unlimited right to freely use one's own language in all spheres of life) and in Article 62 there is an exception prescribed only for use of the language 'in the exercise of his rights and duties and in procedures before state and other bodies performing a public function' (2003, p. 56), i.e. not in all the public sphere of life, but only before public authorities. Only there, is the use of one's own language is limited – it is allowed only 'in a manner provided by law' (2003, p. 56) (i.e. with obligatory translation into the Slovenian language – mostly at his own expense). In all other fields of life, the use of this right should be completely free and unlimited. Naturally, life itself (social relations) imposes its own factual and not legal limitations, for example; you may have the right to speak Chinese on the street or at the market, but if no one understands your words, you will cease to use this right. But, when the use of the Croatian or Serbian language in public life is in question (on the street, at the market, on TV, etc.), which is generally well or sufficiently well understood by Slovenians, then we are confronted with the problem of denial of this constitutional right by people who are not aware that such a right exists. In addition people using these languages, which are similar to the Slovenian language, are sometimes verbally attacked; 'This is Slovenia – speak Slovenian or go home!' Here, the absence of political actions, explanations in the media, etc. in favour of this constitutional right can be heavily criticised.

Article 11 of the *Constitution of the Republic of Slovenia* (2003, p. 38), provides that 'the official language in Slovenia is Slovenian. In those municipalities where Italian or Hungarian national communities reside, Italian or Hungarian shall also be official languages.' The protection of minorities' language rights¹⁴ is therefore largely tied to the ethnically mixed area, that is, to the territory of the settlements in the individual municipality where members of the native Italian and Hungarian ethnic communities live. Within the framework of the special rights of the autochthonous national communities, Article 64 provides that in accordance with the law, the Italian and Hungarian national communities and their members 'have the right to education and schooling in their own languages, as well as the right to plan and develop such education and schooling',¹⁵ and that 'the geographic areas in which bilingual education is compulsory are determined by statute' (2003, p. 57).

¹³ This is the opinion of M. Krivic, who was a member of a small group of experts which prepared the first draft of the new constitution (in fall 1990).

¹⁴ In Art. 5 of the Constitution, Slovenia is obligated to 'protect and guarantee the rights of the autochthonous Italian and Hungarian national communities' (2003, p. 36). In Art. 65 it is also stated that 'the status and special rights of the Romany community living in Slovenia shall be regulated by law' (2003, p. 58).

¹⁵ Art. 3 of the *Organization and Financing of Education Act* (2007) regulates the teaching language in kindergartens and schools. Para. 1 provides that instruction and education in kindergartens or schools be carried out in the Slovenian language. In para. 2 it provides that in the areas of mixed nationality in which members of the Italian national community live, kindergartens and schools are to be established in which education is carried out in the Italian language (kindergartens and schools with the language of a national community). Para. 3 provides that in those areas of mixed nationality in which members of the Hungarian national community live, bilingual kindergartens and schools are to be established in which education is carried out in the Slovenian and Hungarian language (bilingual kindergartens and schools) (Art. 3). Provisions on language and the special rights of minorities are included in all statutes which regulate education. In addition to these rights to education and schooling in their own languages, the *Public Administration Act* (2002) allows the use of Hungarian and Italian along with Slovenian in Government administration (in municipalities where autochthonous ethnic minorities live). Italian and Hungarian ethnic minorities in the National Assembly elect one deputy each (*National Assembly Elections Act*, 1992).

The relation between Articles 11 (2003, p. 38) and 61 (2003, p. 56) of the *Constitution* is also almost completely ignored. Not only the general public, but also politicians and even jurists misunderstand Article 11 as declaring Slovenian not only as the official language, obligatory for public authorities, but also as the only language allowed to be spoken at all in public. This great misunderstanding was expressed also in a special law in 2004 - the *Public Use of the Slovene Language Act*.

3. An Overview of Current Debates

One of the main topics of the current debates is still related to the integration of Slovenia into the European Union (EU). On the one side there are those who think that the Slovenian language, which is spoken by a relatively small number of people, is now threatened more than it was before entry into the EU. Some of them even believe that the Slovenian language will disappear in the EU. On the other side are those who are convinced that the fate of the Slovenian language does not depend so much on the EU, which guarantees a high level of protection for autochthonous languages, but mainly on Slovenians themselves.

The second topic of the debates is the *Public Use of the Slovene Language Act*, which was adopted by the Slovenian Parliament in 2004. The main aim of this law is to protect the Slovenian language from the influence of foreign languages. The law states that Slovenian shall be used orally and in writing in public life. The two constitutionally recognized minority languages (Italian and Hungarian) may also be used in bilingual city councils. It stipulates that the names of all state bodies, local administrations, public organizations, public companies, and political parties shall be in Slovenian. Public insignia as well as the names of private companies, premises and shops should be in the Slovenian language, too. All proceedings involving public and private companies should be carried out in the Slovenian language. Slovenian is also prescribed as the language of public notices, conferences, press releases, announcements, and product labelling and instructions. Contracts with Slovenian companies must be written only in Slovenian and only this version may be considered as an original. In addition, all companies and individuals under private law must communicate with their customers in Slovenian and only people with appropriate knowledge of Slovenian can be employed in jobs that require communication skills. In Slovenia, this law has been criticized by representatives of the Italian and Hungarian minority because, in their opinion, it does not promote diversity. It has been criticized also outside Slovenia. Members of the FPÖ (extreme right-wing Austrian party), blame it for restraining free competition by means of language discrimination. One of the authors of this report (M. Krivic) has also written several articles trying to draw attention to the obvious unconstitutionality of several provisions of this law, but with no response so far. He raised this question also at the Round Table organized by the ECRI commission of the Council of Europe in Ljubljana on 14 October 2003, which focused on the problems of the 'unrecognized new minorities in Slovenia'. This question has not yet been raised before the Constitutional Court by the unrecognized new minorities in Slovenia (perhaps also fearing the possible worsening of relations with the government). One of the motives to write the abovementioned articles were the publicly expressed doubts (in newspapers) about the use of the bilingual name of the 'Islamic Association of Slovenia' (in the Slovenian and Bosniak languages) supposedly not being in conformity with the Constitution (as if Bosniaks in Slovenia should speak and write only Slovenian – and that they should not be allowed to name their religious or cultural organisation in their own language!).¹⁶

According to the *Court rules* (1995) court proceedings must be conducted bilingually if one of the parties uses the Hungarian or Italian language.

In accordance with *The National Assembly of Slovenia Rules of Procedure* (2007), the two deputies of the ethnic minorities have the right to use their language in oral and written form. These deputies' debates shall be translated into Slovenian.

The *Media Act* (2001) allows the creation and dissemination of information about minorities in their own languages.

Act on designating areas and naming and marking settlements, streets and buildings (2008) provides that those municipalities which in addition have as well the official languages Italian or Hungarian, the names of settlements, streets are established in the Slovenian and the Italian and Hungarian languages - as well as in the municipal regulations (Statutes of the Municipalities). The personal identity cards and passports are trilingual; in Slovenian, English (passports also in French), and in Italian or Hungarian in the areas where autochthonous national minorities lives (*Identity Card Act*, 2008; *Passports of the Citizens of the Republic of Slovenia Act*, 2011).

¹⁶ In 2010 the Art. 2 was supplemented by a para. that the law does not apply to language and religious rites performed, and the exceptions to this law, the language of literary texts (Art. 1, *Act on Changes and Supplementations of*).

4. Language Rights in Compulsory Education

The *Constitution of the Republic of Slovenia* states that primary education is compulsory (Article 57, 2003, p. 55).¹⁷ In Article 6 of the *Elementary School Act* (1996) it is stated that the language of instruction in primary schools is Slovenian,¹⁸ and that the language of instruction in primary schools providing instruction in the languages of ethnic minorities is Italian and, in bilingual primary schools, Slovenian and Hungarian. In primary schools in areas defined as ethnically mixed areas populated by Slovenes and members of the Italian minority, pupils in schools which provide instruction in Slovenian must also learn Italian, and vice versa, pupils in schools providing instruction in Italian must also learn Slovenian.¹⁹ According to the 2004 report of the Committee of Experts of the Council of Europe, the Slovenian legal framework offers ‘a high standard of protection’ for Italian and Hungarian (2004, p. 8). Furthermore, Slovenia applied the more specific and legally binding Part III of the European Charter on Regional and Minority Languages²⁰ to the Italian and Hungarian minorities. The second (2007, p. 41) and the third report (2010, p. 37) exposed that Slovenia has maintained and developed those (while there are still gaps in some certain areas) and that it is a ‘must to continue commitment to the protection and the promotion of the Hungarian and Italian languages, as well as the efforts to protect Romani.’²¹

Bilingual primary schools in those municipalities inhabited by the Hungarian national minority were the subject of a constitutional complaint submitted by a few parents. ‘The petitioners challenged the statutory provision ... according to which, in the areas in which members of the Slovenian nation live together with members of the Hungarian national community, bilingual kindergartens and schools are established. The petitioners opined that by the thus determined manner of education, Slovenian children were put in an unequal position compared to children living in other parts of Slovenia where for members of the Slovenian nation the teaching language is Slovenian. In particular, the challenged provision allegedly determined, contrary to Article 14 of the Constitution, different types of education for the areas in which members of the Hungarian national community live than for the areas populated by the Italian national community. And as such, also a different extent of knowledge for children to learn was allegedly required, in that Slovenian children living in the bilingual area were allegedly obliged to have a command of the Hungarian language to the same extent as the Slovenian language. According to the petitioners, bilingual education required of children more effort spent on studying, thus causing them to learn much less than children in single-language schools.’ (*U-I-94/96* - Decision of the Constitutional Court, 1998). The Constitutional Court stated that bilingual schooling, as the special right of an indigenous national community to equality before the law, does not by itself encroach on the right of the members of the majority population. The Constitution does not prevent the legislature from determining within the limits of its discretion, criteria according to which it may differentiate between certain similar states of facts and apply them with different legal consequences. Such discretion, by which the legislature pursues constitutionally permissible goals, is a crucial component of legislative power.

¹⁷ Primary education in Slovenia lasts nine years (in the text we are using the notion of elementary school).

¹⁸ For children who reside in the Republic of Slovenia, whose mother tongue is not Slovenian language and they join the primary school, the teaching of Slovenian language and culture through cooperation with countries of origin as well as teaching their native language and culture is organized (Art. 8, *Act on Changes and Supplementations of Elementary School Act*, Art. 1, Para. 2).

¹⁹ The following is also amongst the goals to be achieved by primary education: to foster literacy and the competency to understand, communicate and express oneself in the Slovenian language and, in the areas defined as ethnically mixed, also in the Italian and Hungarian language, respectively (Art. 2). Developing language proficiency and skills as well as promoting the awareness of the position of the Slovenian language as the language of the Slovenian state, and, in ethnically mixed areas, fostering and developing the Italian and Hungarian languages in addition to Slovenian is also the aim stated in Art. 2 of the *Organisation and Financing of Education Act* (1996 and 2007). The protection of the special rights of the Italian and Hungarian national communities in the area of primary education is also regulated by the *Special Rights of the Members of the Italian and Hungarian Communities in the Field of Education Act* (2001).

²⁰ Slovenia chose from the *European Charter on Regional and Minority Languages* (1992) the provisions stating that the Parties will (i) make available primary education in the relevant regional or minority languages; or (ii) make available a substantial part of primary education in the relevant regional or minority languages; or (iii) provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum (*European Charter for Regional or Minority Languages*, Art. 8, 1st para., b (i,ii,iii)).

²¹ ‘One positive development in the field of education is the ratification by Slovenia of undertakings in the field of primary education: The monitoring and development of minority language education has become part of a existing activities of the National Institute for Education’ (with publishing an annual report covering the situation of monitoring language education) (2010, p. 37).

‘Besides the thus determined limits of the legislature’s discretion, consideration must be given to the fact that the establishment of bilingual schools is imposed on the State by the *Constitution*. The selection of the areas in which such schools will be established, and the areas in which the special rights of an indigenous minority concerning the field of education will be guaranteed by establishing minority schools, is left to the legislature. Historical circumstances have dictated the organization of bilingual schools in the areas where the Hungarian national community lives, and not also in the areas populated by the Italian national community. The preservation of the organization or network of bilingual schools also entails respecting the obligations that Slovenia contracted by ratified international agreements, and is not inconsistent with the Constitution (i.e. with Article 14 of the Constitution).

The Constitution in Article 57, paragraph 3 imposes on the State the duty to provide opportunities for all citizens to obtain a proper education. This entails the duty of ensuring equal opportunities for pupils to obtain such a level of compulsory primary education that will enable them, according to their wishes and abilities, to continue with a proper education after they finish primary school. The petitioners in no manner showed that the pupils of bilingual schools had been, concerning the quality of knowledge obtained (considering school grades and their results on the final examination), in a different position, or even discriminated against, in comparison with other pupils (of ‘regular’ or minority schools). According to these circumstances, the differences between pupils do not necessarily, or not at all, depend on the fact that the individual attends a bilingual school. A bilingual school, in so far as the compulsory learning of a minority language is required, also does not entail an encroachment on the right of Slovenian children to use their language and script.’ (*U-I-94/96* - Decision of the Constitutional Court, 1998).

Slovenia has also signed Part II of the European Charter on Regional and Minority Languages for the Romany language, but until now, neither primary education nor a substantial part of other education is available in the Romany language.²² Moreover, the teaching of Romany as an integral part of the curriculum is still an unachieved aim,²³ although many Roma children speak only Romany when they start their schooling. There are two main practical obstacles which prevent the teaching of the Romany language. The first one is the lack of standardisation and the dialectal fragmentation of the Romany language. The second is the lack of teachers who can communicate in Romany (Krek, 2001). Strategy from 2004 identified Roma assistant as one of the solutions in the field of education, ‘ignorance of the Slovenian language and the failure to involve children can be overcome or alleviated by the introduction of Roma assistants who will help children overcome the emotional and linguistic barriers and represent a bridge between kindergarten or school and the Roma community’ (Strategy for the Education of Roma in the Republic of Slovenia, 2011: 12-13); but still, up to now the Roma assistant is not legislative but project organized; e.g. project founded from European Social Funds and within the ‘public works’. Another issue is whether there have been applications to the European Convention on Human Rights (ECHR)²⁴ and what the outcome of these applications have been.

Article 8 of the Constitution of the Republic of Slovenia states: ‘Laws and regulations must comply with generally accepted principles of international law and with treaties that are binding on Slovenia. Ratified and published treaties shall be applied directly’ (2003, p. 37). Since Slovenia is a party to the ECHR as well as to its additional Protocol 12, which prohibits discrimination also on the grounds of language, Slovenia must implement them.

²² In Slovenia, only languages with official status (Hungarian and Italian) are also languages of instruction.

²³ At the time of the adoption of Strategy for the Education of Roma in the Republic of Slovenia from 2004 in 2007 optional subject “Roma culture” was prepared and adopted. The course is conducted at a Primary school Janko Padežnik in Maribor. The course gains pupils’ knowledge about the history of the Roma, the Roma culture as a way of life and the Roma cultural creativity in the past and today, pupils also develop the ability of understanding of the lifestyles of different ethnic groups that coexist in the same space. The strategy also highlights that only the introduction of an optional subject can not resolve the key issues, usually described as ‘ignored curriculum’. It therefore remains a task of school policy to take a stronger integration of the Roma culture, both within a prescribed curriculum at all levels of education (Strategy 2011, p. 14).

²⁴ Formally - the *Convention for the Protection of Human Rights and Fundamental Freedoms* - was drafted in 1950 by the Council of Europe and entered into force in 1953. The Convention has several protocols.

The *Elementary School Act* provides, in accordance with international agreements, the teaching of native languages for the children of Slovenian citizens living in the Republic of Slovenia whose mother tongue is not Slovenian. In addition, the teaching of Slovenian may also be organized for them (1996, Article 8). The children who have foreign citizenship or who are without citizenship and live in Slovenia have the right to obligatory primary school education under the same conditions as Slovenian citizens. For them, lessons of their mother tongue are organised in accordance with international agreements.²⁵ Immigrant children have the possibility of learning their mother tongue in accordance with the *European Union Council Directive 77/486/EEC (1977)*²⁶ concerning education of children of migrant workers. This possibility is defined in national legislation and in bilateral agreements and interministerial protocols with countries of origin of members of national communities. Mother tongue classes are organised in cooperation with the country of origin. Slovenia has always responded to these incentives, therefore language classes are held to teach different languages, according to the interest shown in an individual school year (Eurydice, 2004).²⁷ In 2004, for example, classes of Macedonian, Croatian and Serbian have been organized in accordance with bilateral agreements. Year before, classes of Macedonian were held, while in past years classes of Croatian and Albanian were organised. Another opportunity for pupils to learn their mother tongue is as an optional subject²⁸ in elementary school.²⁹ 'Legislation does not single out children who reside irregularly in the country. In the case of persons with temporary asylum (war refugees from Bosnia and Herzegovina) as well as asylum seekers from the Asylum Act,³⁰ the condition of reciprocity does not apply' (Eurydice, 2004, pp. 4, 6). In 2007 Strategy for the integration of immigrant children and pupils in the education system was

²⁵ Nowadays Slovenia combines the methods of two principal methods of organizing mother tongue tuition for immigrant pupils: bilateral agreements and provision of tuition funded by the national educational system. Also financing by the diplomatic missions of certain countries is possible to organise tuition in mother tongue and history of the country of origin (Eurydice, 2009: 23-24). Although regarding the *Personal Data Protection Act (2007)* data collection of pupils/students, including mother tongue is not permitted. The implementation of this Act otherwise complicates the collection of other data as well, resulting in a number of unofficial records (e. g. number of drop-outs or early school leavers is only an estimation etc.)

²⁶ What is interesting is that the Directive was implemented in our Elementary School Act scarcely in 2007 with *Act on Changes and Supplementations of Elementary School* (Art. 1), before only the Art. 10 of Elementary School Act (1996) dealt with foreigners and some particular bilateral agreements were regulating this field. After that implementation of other legislation deals with that as well.

²⁷ Children of EU citizens may attend school in any EU country under the same conditions as citizens of that country. They have the right to be enrolled in a class that corresponds to their age and is equivalent in complexity to the class in the country of origin, regardless of their language skills. Children of EU citizens, who move to another EU country for work, are under EU law entitled to a free course to learn the language of the country in order to better adapt to the new school system (Education and Youth, 2012). The *Aliens Act (2011)* provides that integration of foreigners in the education system of the Republic of Slovenia is carried out in accordance with the laws governing education (Article 105, Paragraph 5). Art. 106 is valid for non EU citizens and states: To participate in the Slovenian language learning program are not eligible to foreigners who have completed schooling at any level in the Republic of Slovenia or were included in the regular education program in the Republic of Slovenia or have already obtained a certificate of successful completion of the examination of Slovenian language at least a basic level (para. 3). To free participation in the Slovenian language learning programs and knowledge of Slovenian society are eligible foreigners who are not EU nationals and who: (i) Residing in the Republic of Slovenia on the basis of permanent residence, and family members who are in the Republic of Slovenia a temporary residence permit for family reunification, irrespective of length of residence in Slovenia and its validity; (ii) Residing in the Republic of Slovenia on the basis of temporary residence permits issued with a validity of at least one year; (iii) The family members of Slovenian nationals or EU citizens who reside in the Republic of Slovenia on the basis of residence permits for family members, regardless of the length of stay and validity (para. 2, Art. 106). *International Protection Act (2011)* regulates applicants' right to education (Art. 78, Para. 1 (viii)), what is also valid for applicants whose right to international protection is recognized. In accordance with the regulations providing for compulsory primary education, the applicant provides the right to primary education (Art. 86, Para. 1) and for secondary level and higher education applicant has also access to education, but under the rules that apply to citizens of Slovenia (Para. 2 and 3). Persons granted international protection in the areas of early childhood education, primary, secondary, higher and university education are treated as citizens of the Republic of Slovenia (Art. 97).

²⁸ In Slovenia, for the last three years of compulsory education, foreign or stateless pupils may choose their mother tongue as their foreign language option provided regarding the sufficient number of interested pupils. In school year 2007/08, the foreign language tuition organised for this level of education, i.e. lessons in German, Spanish, French, Italian, English, Croatian, the language of the former Yugoslav Republic of Macedonia, Russian and Serbian, reflected the languages spoken by immigrant pupils (Eurydice, 2009: 28).

²⁹ The introduction of compulsory second language, which gives schools the option of two different other languages were already underway. In school year 2013/2014 a second foreign language instruction from 7th grade pupils of all elementary schools in Slovenia should start (Elementary School Act, (Art. 1, 2010)), But recent laws; *Act on Changes and Supplementations of Elementary School (2011)* in Art. 12 stated that schools for children of 7, 8 and 9th grade conduct a foreign language as an optional elective subject and the *Public Finance Balance Act (2012)* changed also that and prescribed to school for pupils from 4th up to 9th grade instruction optional second foreign language (Art. 63). Regarding the Act, which will have implications for the composition of the public finances, could be inferred that this change is just a financial one. But public debate has existed for some time on conceptual matters of the introduction of a second foreign language in our elementary schools. The same law introduced in the school year 2015/2016 the first foreign language as a compulsory subject in the curriculum for all students who are enrolled in the first class (Art. 72).

³⁰ From 4. 1. 2008 Asylum Act is no longer valid. This area is regulated by the International Protection Act (2007).

adopted, but what is even somewhat surprising, focuses mainly³¹ on a narrow question of learning the Slovenian language.

5. Language Rights in Non-Compulsory Education (Especially Higher Education)

Language rights in pre-school education are determined by the *Kindergartens Act*.³² Article 5 (2005) states that the Slovenian language is the language of instruction (education) in kindergartens. According to a 'special statute', if instruction at kindergartens in areas of mixed nationality in which members of the Italian national community live is in the Slovenian language, children must also learn the Italian language. Moreover in kindergartens in which education is in the Italian language, the children must learn the Slovenian language. In the areas of mixed nationality in which members of the Hungarian national community live, education is, 'according to a special statute', bilingual, that is to say, in the Slovenian and Hungarian languages.

Legislation on secondary school education has similar provisions on the language of instruction,³³ but an important difference lies in the fact that at secondary school there is the possibility for lessons to be taught in a foreign language.³⁴ In addition, Article 9 of the *Special Rights of the Italian and Hungarian National Communities in the Field of Education Act* (2001) also regulates the teaching and learning of the minority language outside the ethnically-mixed area. The pupils and apprentices who complete elementary school education in the minority language or at a bilingual elementary school and enrol in a vocational school, a technical high school or a general secondary school outside the nationally mixed areas, must be provided with the possibility to learn the minority language as an optional school subject by the schools (themselves or together with other schools). The teaching of the minority language is to be organized, if no less than five pupils or apprentices choose to enrol, and it is to be free of charge. This required group of five or more pupils or apprentices can also be formed from the pupils or apprentices that attend different educational programmes or different schools in the same region.

With regard to higher education, Slovenian is prescribed as the teaching language, but there is the possibility of teaching being carried out in a foreign language. Article 8 of the *Higher Education Act* (2012), which refers to the language of instruction, states that the language of instruction shall be Slovenian. Higher education institutions are also obliged to take responsibility for the development of the Slovenian language as a professional and scientific language and to give foreigners and Slovenians without Slovenian citizenship the opportunity to learn the Slovenian language. Furthermore, a higher education institution may offer study programs or parts thereof in a foreign language. If a higher education institution performs a public service, the following may be conducted in a foreign language; a) foreign language study programs, b) parts of study programs, if carried out in cooperation with visiting scholars from abroad, or if a greater number of foreign students are enrolled in it, c) study programs which the higher education institutions also provide in Slovenian.

³¹ But also points to broader contexts and exposes the key problems - e. g. elaborated strategies for integrating migrant children in the Slovenian cultural environment while respecting and preserving their language and culture of origin etc.

³² Slovenia (as a signatory state to the *European Charter for Regional or Minority Languages*) is also obligated to honour the provisions stating that it must (i) make available pre-school education in the relevant regional or minority languages; or (ii) to make available a substantial part of pre-school education in the relevant regional or minority languages (Art. 8, 1st para., a (i,ii)).

³³ The *European Charter for Regional or Minority Languages* (1992) obliges the state of Slovenia to: (i) make available secondary education (including technical and vocational education) in the relevant regional or minority languages; or (ii) to make available a substantial part of secondary education in the relevant regional or minority languages; or (iii) to provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum (Art. 8, 1st Para., c, d).

³⁴ The language of instruction in secondary schools is Slovenian. The language of instruction in secondary schools (and gymnasiums) for the Italian minority is Italian, in bilingual secondary schools (and gymnasiums) it is Slovenian and Hungarian. In areas defined as mixed ethnicity areas with mixed populations of Slovenian and Italian nationalities, in secondary schools (and gymnasiums) where the language of instruction in Slovenian, students must learn Italian, in those schools which conduct instruction in Italian, they must learn Slovenian. In accordance with the minister of education, a part of the curriculum may be carried out in a foreign language if an acknowledged foreign expert takes an active part in it (Vocational Education Act, Art. 6; Gymnasium Act, Art.8). Programme of preparations for the International Baccalaureate can be performed in a foreign language. Educational program for gymnasiums for foreign students can be conducted in a foreign language – then the school must also provide a choice of Slovene as a subject (Gymnasium Act, Art.8, 6th para.).

Considering that the European Charter for Regional or Minority Languages, which Slovenia is obligated to fulfil, states that (iii) the Parties must if, by reason of the role of the State in relation to higher education institutions, sub-paragraphs (i) and (ii) cannot be applied, encourage and/or allow the provision of university or other forms of higher education in regional or minority languages or of facilities for the study of these languages as university or higher education subjects.³⁵ Students who belong to the Hungarian and Italian ethnic minorities have the opportunity to study the Hungarian language and culture or the Italian language and literature at universities in Slovenia.³⁶ But if they want to use Italian or Hungarian as the language of instruction in other, non-linguistic fields, they have to study at universities in Italy or Hungary, since the demographic situation does not afford the organisation of higher education study in the Hungarian or Italian language (Komac, 2002).

The *Agreement on Mutual Recognition of Degree Certificates*³⁷ which Slovenia and Italy concluded in 1995 is the legal framework which facilitates the study of members of the Italian ethnic community at Italian universities, and analogously also the study of members of the Slovenian minority in Italy (Komac, 2002). There is also a similar possibility which allows for members of the Hungarian ethnic community to study in Hungary, as well as for members of the Slovenian ethnic community in Slovenia, provided by the *Convention on Providing the Special Rights of the Slovenian Ethnic Minority in the Republic of Hungary and the Hungarian Ethnic Community in the Republic of Slovenia* (1993). The same is also offered by the *Agreement on Cooperation in the Field of Culture, Education and Science between the Republic of Slovenia and the Republic of Hungary Ratification Act*, which the two countries concluded in 1992 and ratified in 1993.³⁸

The European Charter for Regional or Minority Languages also concerns adult and continuing education. Slovenia chose to comply with the provision which states that (iii) if the public authorities have no direct competence in the field of adult education, to favour and/or encourage the offering of such languages as subjects of adult and continuing education (Article 8, 1st paragraph, f (iii)).

6. Conclusion

The Slovenian language has played a crucial role in binding together the Slovenian nation and developing its sense of self-awareness not only in the absence of an independent state, but also since Slovenia became an independent state. Many Slovenians view the preservation of the Slovenian language as crucial to their very survival as a nation. The impact of this view is also discernible in the formulation of one of the main objectives of Slovenia's cultural policy as laid out in the Resolution on National Cultural Programme 2004-2007,³⁹ also later documents maintain this orientation (e.g. Resolution on National Cultural Programme 2008-2011, Resolution on National Programme for Language Policy 2007-2011). This objective is the preservation and development of the Slovenian language as 'a treasury of culture and one of the main national and state symbols.' The protection of the Slovenian language as the primary language of education, commerce and political expression is a priority of all the State Ministries and the main aim of the Public Use of the Slovene Language Act (2004). This cultural policy is accompanied by recognition that bilingualism or multilingualism is important, especially in the context of Slovenia's accession to the EU, and is in line with the EU's policy of promoting European linguistic diversity.

³⁵ Art. 8, 1st para., e (iii).

³⁶ There are also courses for teachers in bilingual (Slovenian and Hungarian) kindergartens and primary schools as well as for teachers in kindergartens and the first four years of primary schools with Italian as a language of instruction.

³⁷ Formally - *Agreement between the Government of Slovenia and the Government of Hungary on the Mutual Recognition of Diplomas and Certificates* (1993).

³⁸ The agreement served as a foundation for the preparation of the agreement between the Government of Slovenia and the Government of Hungary on the Mutual Recognition of Diplomas and Certificates, which the States signed in 1999 and was published in the Official Gazette of the Republic of Slovenia in 2000.

³⁹ National Programme, which is in process of formation, changed its character from the national program in the resolution, which facilitated the procedural process (not three-phase as in the law, the resolution adopted a single-phase process) (Likar, 2012).

Regarding the language rights of national minorities, Slovenia offers high legal protection to its constitutionally recognized Hungarian and Italian minorities. For them, education in their mother tongue is available. The Slovenian government is trying to improve the situation for the Roma community, but until now, its attempts have been neither enough successful nor enough sufficient. The language rights of these three minorities are protected also by the European Charter for Regional and Minority Languages. Since Slovenia has not recognized other language groups living in Slovenia as national minorities, their languages can be taught in schools in accordance with bilateral agreements.

The third evaluation cycle of the Committee of Experts on the European Charter for Regional or Minority Languages in the report from 2010 exposed that ‘there is a need to increase awareness of Slovenia’s regional and minority languages in the Slovenian population at large and to promote mutual understanding and further contacts between the different language groups. Co-ordinated measures should notably be taken regarding the media and education, including teaching materials and teacher training as well as journalist education’ (2010, p. 38), therefore the language rights in education in Slovenia should be also in forefront.

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