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LAW AND POLICY-MAKING AS A TOOL FOR THE PEACEFUL COEXISTENCE OF LANGUAGES

1 Languages in Competition – Why Intervene?

Language is a particularly important medium for human communication. It conveys messages and makes connections. Nevertheless, it is more than just a channel of communication: it is a part of the personal identity. It is also suitable for defining ourselves and distinguishing others.

Borders of languages and countries typically differ from each other. If several languages are spoken within a country, the languages begin to interact with each other. A competition will evolve, and as a result, we can discover differences: languages of many and few, *lingua francas* and local languages, as well as surviving and extinct languages.

Let us imagine a country where the citizens speak three languages: one is the dominant language, which is also the country's official language and two minority languages that are spoken by indigenous communities. One of the minority language groups in this country has a strong cultural value, but the language is on the verge of extinction, having fewer speakers year after year. The other minority group has economic value as well, as they represent a significant sector of the country's economy. The first language group is peaceful; the other one strikes for autonomy, sometimes even in an aggressive way. Their survival contributes to the total value of society, but not in equal ways. Minority languages do not compete with each other, but with the majority language – each in a completely different way.

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This competition – within one country – is basically different from economic competition,[1] as here different groups of the same society are the subjects, society itself is the place where the "*competition of languages*" takes place. This competition is about how many languages are spoken, which one has a social prestige. Do they speak the language in the private sphere, on social media? Can it be used orally or in writing in official communication? In this sense, however, although it is a social phenomenon,[2] languages behave similarly to players in a competition that may be distorted, just as in economic competition.[3] In such cases, top-down intervention is necessary for the conditions of competition to be fair. Intervention can be implemented in the way of positive law or policy-making, depending on what is required by groups or competing languages in a given society, and aims at protecting the vulnerable parts of the society.

Approaching all this not from linguistics or economics but from the point of view of jurisprudence, we can see that all historical eras have raised the question of whether the legal and political system needs to reflect on the phenomenon of multilingualism. The state's so-called "defence function" was given a prominent role in the modern and postmodern age. This refers to the manifold ways in which the state protects its citizens,[4] and by which the security of the society (in various respects) has received special attention. If a group wishes to speak a minority language in a country, the protection of their (linguistic) rights may also be characterised as one of the state's defence tasks, that

[1] George J. Stigler: Economic Competition and Political Competition. In: *Public Choice*, Vol. 13, 1972, 91–106.

[2] Charles Goodwin – Antonio Duranti: Rethinking Context: an introduction. In: Alessandro Duranti – Charles Goodwin (eds): *Rethinking Context: Language as an Interactive Phenomenon*. Cambridge University Press, 1997. 14–16.

[3] Brian D Joseph – Johanna de Stefano – Neil G Jakobs – Ilse Lehiste: Language Conflict, Competition and Coexistence: some preliminary remarks. In: Bruce Bueno De Mesquita – Professor Brian D Joseph (eds): *When Languages Collide: Perspectives on Language Conflict, Language Competition, and Language Coexistence*. Ohio State University Press, 2003. vii.

[4] Liesbet Hooghe: *Multi-Level Governance and European Integration*. Rowman & Littlefield Publishers, 2002. 30. and Patyi András: *A közigazgatási működés jogi alapjai*. Budapest: Dialog Campus. 2017, 29.

is to protect the citizens and their rights. Below we will examine four possible means to achieve this goal.

However, what should the state do if its residents speak different languages? Making the use of a dominant language compulsory may only facilitate its own operation. On the other hand, the part of the population that does not speak the official language could become disadvantaged or subordinated. Therefore, a good and humanistic solution lies probably not in the direction of mandatory monolingualization. In any case, the state will need to respond in a legal or political way in order to come up with a framework (policy) that allows for the peaceful coexistence of all languages spoken in that country and, by extension, to strengthen the security of the population – in physical, legal, economic and political terms.

In the following pages, I examine four possible fields of policy intervention where language- and minority protection may have a significant role.

2 Law of Coexisting Languages

For the following study, I examined two significantly different language areas: the United States of America[5] and the Central European region.[6] In each of the countries studied, several languages are spoken, but the relationship between the languages and even the official status of the dominant language is very different.

The largest non-native English-speaking ethnic group in the United States is the Spanish-speaking Latino or Hispanic community. They make up 18.5% of the whole population (cca. 60 of 320 million), and their numbers are growing year by year.[7] Today, they have become

[5] Gerencsér Balázs Szabolcs: *A latínók az Amerikai Egyesült Államokban*. Budapest: Pázmány Press. 2019.

[6] Gerencsér Balázs Szabolcs: *„Nyelvében él…" Kárpát-medencei körkép a határon túli magyarok hivatalos anyanyelvhasználati jogairól*. Budapest: NSKI, Méry Ratio. 2015.

[7] Data of August 2021 see US Census Bureau https://www.census.gov/ quickfacts/fact/table/US/PST045219 2 25. USC 31. § 2910-2906.

a determining political and economic factor, so it is inevitable to consider their situation, whether it is in relation to voting, healthcare, education, the labour market or the protection of human rights. The United States is, at the same time, an English-dominated country, while other languages are also used in both the private and public spheres. It is a monolingual and multilingual country at the same time. It is monolingual when we are speaking of the primary language (English) of public bodies, the bureaucracy, and all public service bodies, including the federal government and state governments. On the other hand, it is also a multilingual country when the state wants to address its citizens whose mother tongue is not English and enables public services in multiple languages, often without any normative authorisation.

The literature classifies the languages that appear on this continent into three categories.[8] The indigenous, *native languages,*[9] the *colonial languages*[10] and the *languages of immigrants*.[11] However, one cannot draw

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[8] Moleski, Jean: Understanding the American Linguistic Mosaic: A Historical Overview of Language Maintenance and Languange Shift. In: Sandra Lee McKay – Sau-ling Cínthia Wing (eds.): *Language Diversity – Problem or Resource?* Cambridge: Newbury House Publishers. 1988, 34.

[9] Before the conquests, there was a great linguistic diversity on the North American continent. The Indian tribes developed their own languages and dialects which ebbed gradually away (irreversibly, as we can say today) as European settlers were conquering more and more territories. It is, therefore, not a coincidence that the *Native Language Act of 1990* tried to protect and preserve the handful Indian languages with legal means. Such a statutory framework can, however, only slow down the process that resulted in the dramatic shrinking and relocation of the natives by the end of the 1800s, especially in the northern part of the USA.

[10] These are the languages of the first settlers: Spanish, English, French, and German. Among them, English was dominant already at the founding of the United States. Its leading role was not really challenged during the history of the country either. Besides the four largest colonial languages, the relevant literature regards Russian, Swedish, and Dutch as belonging to the same type. (Wiley, Terrence: The imposition of World War I era English-only policies and the fate of German in North America. In Thomas K. Ricento – Barbara Burnaby (eds.): *Language and Politics in the United States and Canada*. Mahwah, NJ: Lawrence Erlbaum Associates. 1998, 213.)

[11] This category includes the languages of groups having been immigrating since the 19th century. The relevant academic literature applies this class from the founding of the independent United States (1776). (Moleski 1988 *op. cit.,* 35.)

a sharp line between certain colonial and immigrant languages. An especially good example of this is Spanish, which clearly belongs to both categories.

The languages of Native Americans have drifted to the brink of disappearance by now; they, however, resemble most of the European minority languages to the extent that those are also languages with a long past, few speakers, and isolated. Regarding measures and actions in connection with linguistic rights and the protection of language, the American law is only consistent in terms of native Indian languages; it declares the protection of these languages at a high level, and specifies that on the lower level of execution.[12] As regards all the other languages, legislation is encouraged rather by practical considerations such as social inclusion, the functioning of the democratic institutional framework or economic interests, and not through the expressed protection of languages.

This also demonstrates that American law distinguishes between "protected languages" and other "minority languages", or "heritage languages". It provides stronger support to Indian languages; yet, it also reflects on the presence of languages other than English. The two categories are not separated by a straight and clear line, there are major overlaps in regulation. A kind of *flexibility* can be seen in the U.S. legislation and language policy that always reflects society's current demand.[13] This feature drew my attention to the fact that, in addition to the peculiarities of Civil Law tradition in European language rights protection, I should also examine the experience of Anglo-Saxon legal

[12] Tiersma, Peter M.: Language Policy in the United States. In: Tiersma - Solan (eds.): *The Oxford Handbook of Language and Law*. Oxford: Oxford University Press. 2012, 258-259.

[13] For example, I found regulations on the use of language by Latinos mainly in the administrative legislative corpus, i.e. among the lower levels of regulations concerning governance. See for example in the USA regulations of the federal government and agencies that are included in the *Code of Federal Regulations* (CFR): 16 CFR 437.5, 24 C.F.R. § 35.92, 28 CFR 55.2 (a), 28 CFR 55.11. This implies that the use of the Spanish language is to be investigated on the part of administrative bodies (agencies). I could also establish that the regulations on the Spanish language and the languages of immigrants primarily serves the integration of these minority groups.

thinking.[14] Above all, is there any other way, besides positive legislation that helps citizens who speak a minority language and at the same time benefits the state?

When I examined the comparability of Central European and U.S. linguistic laws, I discovered a new and complex approach in the regulation of minority languages, which I call *"the Law of Coexisting Languages"*. This can be the common ground to compare the legal regulations concerning languages. It also goes beyond the traditional approach of linguistic laws because it is not a single field of law, but rather a method of regularisation that combines different approaches.

The Law of Coexisting Languages is not a "language law" that in some way identifies one or more languages and lays down a set of rules that applies to them. Instead, a it is a diverse set of legal norms and policy objectives that can adapt flexibly to societal changes. As each country considers its own characteristics when designing the legal environment of languages, we cannot talk about uniform models here either. In the following, I attempt to identify four areas that are crucial in defining the language policy of each country, highlighting the example of the United States as an illustration, but keeping in mind the known experiences of European countries too.

To ensure the stability of the theoretical model, I make two objective and one subjective presupposition:

I regard the languages (minority languages) that are present and spoken in any country as *a matter of fact*. The existence of a minority language is not justified by the law or any state's decision but by the fact that a precisely measurable, demonstrable, and definable community speaks a certain language. Both the language and the minority have objective, measurable criteria. Therefore, protection under the law should adapt to the geographical, social, historical, and other characteristics of a given non-dominant language. The state must be aware of these conditions to properly determine the conditions for the peaceful coexistence of dominant and non-dominant languages. Strong

[14] De Cruz, Peter: *Comparative Law in a Changing World*. London: Routledge. 1999. 108-119., and Kischel, Uwe: *Comparative Law*. Oxford: Oxford University Press. 2019, 272-275.

social cohesion is a well-understood common interest of all states. Regulations facilitating peaceful coexistence regard languages as a resource rather than a problem. Needless to say, this is in connection with the mutual recognition of cultures.

I place the Human Being in the focus of regulation, which has both individual and social (political) characteristics. Furthermore, I view the person not in isolation but in his network of multiple relations. As a citizen, a refugee, or a guest worker, a person is somehow connected to the state. That relation always determines the legal status of the individual.

As for the subjective matter, if we look at the development of minority law of the 20th century in either Europe or the USA, the mandatory monolingualism mentioned above can, from time to time, put the minority language in the background, but all such methods remain ineffective against living languages. Similar to the subjective criteria of minority identity,[15] concerning language use, we can state that there is a strong social cohesion force that must be taken into account by law. In other words: the language that *wants* to be spoken, *will* be spoken. Examples of small, often endangered European minority languages (such as Frisian, Breton, or some Middle and Eastern European minority languages such as the Hungarian in Romania or Slovakia, the German in Hungary etc.[16]) also support this assertion.

As an outcome of all these, I have gained, using the method of comparative law, a complex approach in which I distinguish four factors underlying the development of proper linguistic policies and legal regulations. The four elements that may have a significant role in stabilising the peaceful coexistence of dominant and non-dominant languages are:

[15] Heintze, Hans-Joachim: Autonomy and Protection of Minorities Under International Law. In: Günther Bachter (ed.): *Federalism against ethnicity?* Zürich: Verlag Rüegger. 1997, 81.

[16] For data on the minority languages see the monitoring documents of the Council of Europe's Charter for Regional or Minority Languages. https://tinyurl.com/2p9mkzkx

1 human rights,
2 functioning democratic institutional framework,
3 good governance,
4 security policy.

3 Human Rights as a Pillar of Language Protection

This research focuses on human rights not just as universal, fundamental rights but also as Linguistic Human Rights (LHRs).[17] LHRs, also referred to as the right to one's own language, is a human right not recognised by international legislation today. Fundamental international law instruments on human rights do not expressly declare or refer to it. Although prominent authors have made several efforts to win recognition for this right,[18] the fact on the ground is that no specific protection is provided for the use of one's own language in global international fora.[19]

Great tension lies in the fact that, on the one hand, the use of a language is not a recognised international human right in itself. However, on the other hand, a variety of "interfaces" linked to language are protected: the fundamental right to freedom of speech, the rights to education, to a fair trial, human dignity or identity – to mention a few examples. These are all well-defined fundamental rights in themselves, and at the same time, they concern spheres of life where language is a key factor.

[17] Skutnabb-Kangas, Tove: Linguistic Human Rights. In: Lawrence M. Solan and Peter M. Tiersma (eds): *The Oxford Handbook of Language and Law*. Oxford: Oxford University Press. 2012, 238–240.

[18] Varennes, Fernand de: Language as a Rights in International Law: Limits and Potentials. In: Szerk. Richter, Dagmar Richter, Ingo - Toivanen, Reetta - Ulasiuk, Iryna (eds.): *Language Rights Revisited – The Challenge of global Migration and Communication*. Nijmegen: Wolf Legal Publishers. 2012. Andrássy György: Freedom of Language: A Universal Human Right to be Recognised. In: *International Journal on Minority and Group Rights 2012/2.,* 195–232, and Kontra, Phillipson, Skutnabb-Kangas, Várady: Conceptualising and Implementing Linguistic Human Rights. In: Kontra, Miklós – Phillipson, Robert – Skutnabb-Kangas, Tove – Várady, Tibor (szerk): *Language: A right and a resource – Approaching linguistic human rights*. Budapest: CEU Press. 1999.

[19] Gerencsér 2015. *op. cit*., 67.

It goes out from the above that the use of a language has a direct human rights aspect. More specifically, it also has a similarity to civil rights. An example of this can be the language-sensitive employment of a native speaker public servant or a doctor with language competencies, or the possibility of establishing special language educational facilities.

That being said, exercising fundamental rights connected with the use of a language is often fragile. In this context, the case law of the European Court of Human Rights (ECtHR) may provide interesting insights.[20] Although the ECtHR is not a court established for the protection of minorities, even less for language rights. The ECtHR examines cases violating provisions of the European Convention on Human Rights (ECHR) that, however, do not contain any provisions on the protection of minorities, except the prohibition of discrimination. Still, this case law is essential for interpreting the pan-European protection of minorities and language rights.[21]

In the case-law of the ECtHR, the protection of minorities relates to the infringement of another human right. Accordingly, a minority or language right dimension can be discovered particularly in cases relating to certain fundamental political rights, social rights, procedural rights and/or anti-discrimination. The ECtHR often rejects applications based on minority rights and not on the ground of human rights.

[20] See, in particular: Bideault v. France No. 9106/80 (1998); Conka v. Belgium No. 51564/99 (2002); Isop v. Austria No. 808/60 (1962); Zana v. Turkey No. 18954/91 (1997); 23 inhabitants of Alsemberg and Beersel v. Belgium 1474/62 (1963); case „Relating to Certain Aspects of the Laws on the use of languages in education in Belgium" v. Belgium Nr. 1474/62, 1677/62, 1691/62, 1769/63, 1994/63, 2126/64 (1968); Inhabitants of Les Fourons v. Belgium 2209/64 (1974); Roger Vanden Berghe v. Belgium Nr. 2924/26 (1968); Skender v. FYRM Nr. 62059/00 (2001); Fryske Nasjonale Partij and other v. the Netherlands Nr. 11100/84 (1985); Inhabitants of Leeuw-St. Pierre v. Belgium Nr. 2333/64 (1965).

[21] Kovács, Péter: Ethnic and Linguistic Minorities and International Law. In: Shelton, Dinah L (ed): *Encyclopedia of Genocide and Crimes Against Humanity.* Detroit (MI): MacMillan Press Ltd. 2004, 692-700. See also: Noémi Nagy: Language Rights as a sine qua non of Democracy - A Comparative Overview of the Jurisprudence of the European Court of Human Rights and the Court of Justice of the European Union. In: *Central and Eastern European Legal Studies, 2018/2.*, 247-269.

All this means that the infringement of minority rights does not always result in the infringement of human rights under the ECHR, and the judgements of the court may serve the aim of protecting minority rights or language rights only in a secondary way.

On the other hand, if a human right is combined with the use of languages (language rights), it is *no longer protected in the same way*. The education of minorities is a good example of this phenomenon. It is not self-evident that a minority-language student has the equivalent right to access education as the majority student. This *internal conflict of human rights* has a significant negative impact on the vulnerable part of the society and has to be solved.

Moria Paz, professor at the Stanford University, has pointed out that international institutions devoted to protecting human rights, especially the ECtHR and the United Nations Human Rights Committee, do not provide universal protection for language rights, but similarly to the American model, they let the states decide about whether they recognise minority languages or not.[22]

It is particularly interesting that cases involving both the issue of language use and fundamental rights have to pass a stricter test.[23] This means that these international institutions give a narrower interpretation for fundamental rights cases that are linked to the issue of language use, while they use a wider interpretation for "ordinary" cases that lack this linguistic dimension. In this context, the linguistic dimension almost "undermines" the value of fundamental rights, and given that there is no universal recognition for a right to the use of languages in general, the fundamental rights implications can be asserted in a more difficult way in such cases. So, I agree with professor

[22] Moria Paz: The Tower of Babel: Human Rights and the Paradox of Language. In: *European Journal of International Law. Vol. 25. 2014/2.* 495. Moria Paz makes special reference to that the protection of languages is too expensive, which expenses are not borne by the states. Thus, international organizations do not wish to allocate costs to states by setting up universal regimes for language protection.

[23] In the Diergaardt v. Namibia case "the UN Human Rights Committee has confirmed that states cannot reject a request for the provision of services and information in a minority language if it is not well justified." Diergaardt v. Namibia (No.760/1997), UN Doc. CCPR/C/69/D/760/1997 (2000).

Fernand de Varennes, who believes that general human rights still need to be supplemented as far as language protection is concerned.[24]

The countries of Europe are in a unique situation because the European Charter for Regional or Minority Languages (ECRML) ensures special protection for regional and minority languages, allowing a better follow up of language-protection systems.

4 Functioning of Democracy as a Motivation for Protecting Languages

Language is also an essential factor in the *functioning of democracy,* and at the same time it is linked to fundamental rights through universal suffrage. The United States is a good example for this, where the Spanish-speaking community has been a constant political target since the 1960s. The aim of the functioning of the democratic institutional system is to involve the citizens and to increase their political activity. An issue that has been on the agenda in the U.S. since 1965 (Voting Rights Act) is the question of having bilingual (English and Spanish) ballot papers during elections.[25]

The relationship between the right to vote and the Hispanic linguistic minority is not new. In the 1960s, human rights movements marked by the name of Martin Luther King stimulated the srealisation of equality, which affected not only the system of black-and-white relations but also Spanish-English language relations.

Thus, from the second half of the 20th century, and especially from the two decades in 1960-1980, we can observe the strengthening of the Spanish language in the public sphere. During this period, not only did the Spanish-speaking population increase in number, but the freedom to use the language brought with it the strengthening of the Latino identity.

[24] Varennes 2012 *op. cit.*, 43–52.

[25] Draper, Jamie B. – Martha Jimenez: Language Debates in the United States. In: *Epic Event*, *1990/2 (5).* 17.

We should also pay attention to the development of the legal environment. The 1975 Amendment to the Voting Rights Act introduced more lenient regulations on bilingual ballot papers. In areas where at least five per cent of the population spoke some form of non-English, they could cast their ballots on a bilingual ballot paper. The linguistic groups selected were the Asian-American, American-Indian, Alaskan Indigenous, and Spanish-speaking peoples ("peoples of Spanish heritage"). In addition, the Bilingual Education Act of 1968 opened the door to multilingual education, which further strengthened non-English communities. The extent to which these rights and benefits have favoured the integration of the Spanish-speaking community is still a matter of debate. On the one hand, it can be observed that Hispanics achieved a higher level of education in a bilingual environment that facilitated their integration into American society. On the other hand, monolingual, and in many cases segregated, blocks have emerged, especially in the western coastal states (and particularly in California). We can call these "linguistic bubbles" that are still present in areas inhabited mainly by Spanish-speaking communities. Significant rules on linguistic equality also include the Equal Employment Opportunity Act (1972) and the Court Interpreters Act (1978). The latter law made it easier for federal courts to access language support.

According to the election rules[26] "linguistic minority" or "linguistic minority group" are to be understood as the American Indians, the Asian Americans, the Alaskan natives, and the Spanish-speaking communities. The provisions formulated in the 1990s, which granted language benefits in the exercise of the right to vote, were based on the recognition that these "linguistic minorities" suffer from inequalities, especially in education, with a very high rate of illiteracy among them. The explicit reason for the amendment was to bring the rules of suffrage into line with the Fourteenth and Fifteenth Amendments to the Constitution, i.e. to reflect equality in the law in this sense, which, however, makes important findings. The first is that illiteracy is still a major cause of the social problems that afflict these minorities in

[26] 52 U.S. Code Chapter 105 § 10503 - Bilingual election requirements

particular. Although the problems of equality of the 1960s have now been eliminated, the issue of illiteracy, especially for Latinos, is far from being resolved. However, as bilingual education is now available in many places and also many public services “speak Spanish”.

However, a very important additional idea is that under-education (or limited English proficiency, LEP) is related to the willingness to vote. If, on the other hand, language is behind all social activities, then the logical conclusion is that linguistic communities, which are not (well) integrated into society, are less interested in running the country’s democratic institutions. Neglected language communities thus not only cause (local) tensions in society, but also bring deficits to democratic institutions as a whole. In this regard, U.S. law has concluded that it is more important to operate a democracy than to wait or force minorities who otherwise do not (or not properly) speak the majority language to begin speaking English. With this, Congress has chosen the path of integration into society, which can also be called the method of “involvement,” that is, the aspiration that linguistic minorities participate more consciously in the country’s operation, even if English is not their mother tongue. Of course, there is still much criticism of this policy today.

The language provisions are subject to a double census in the U.S. Code.[27] On the one hand, it stipulates that the number of persons belonging to a minority language (monolingual or otherwise barely speaking, LEP) in a state should reach 5% of the population, or at least 10,000 in a political subdivision, and in the case of an Indian reservation 5% of the population. On the other hand, the rate of illiteracy in a given language community is higher than the national average. In today’s US law, illiteracy means that a person could not complete 5th grade in elementary school. Therefore, these two conditions must be met for the language gates in the electoral rules to open. It should be noted that with “minority censuses” of 10-30% considered “general” by European standards, this proportion appears to be rather low. Perhaps it is no coincidence that the goal here is indeed to allow minority citizens to

[27] 52 U.S. Code Chapter 105 § 10503 (a)

participate in one of the greatest celebrations in American society: the elections.

Otherwise, bilingualism may appear in various election documents: information papers, notices, forms, regulations, or any document supporting the election process, including the ballot paper. These documents must be published in English, but they can be published in a minority language.

Peter M. Tiersma, a former researcher at the Loyola University of Los Angeles, mentioned three groups of public services that are key for language groups.[28] In his opinion, the states provide pretty few bilingual public services. There is, however, a group of public services where federal competencies are more accepting toward other languages (Spanish in particular) so that they are easier to use for the citizens. The three most common public services or functions with bilingual components, in his opinion, are *public education, public health* (social administration), and *voting rights* (bilingual ballots).

The suggestion is, therefore, topical and direct: the use of the mother tongue must be ensured in areas where the citizens' quality of life (including political relations in the case of democracy) can be directly supported. Moreover, the part of the population, which does not enjoy its democratic rights due to language barriers, has a political deficit, so there are several arguments in favour of their political integration.

All this includes the language of the local (municipal) bodies as well. If the community can conduct its local affairs in its language (e.g., chairing board meetings and making decisions), it can also serve social integration and political stability.

5 Language as a Matter of Good Governance and Internal Security

The issue of the *language of governance and public administration* derives from the preceding point. The prerequisite to proper, reliable, and

[28] Tiersma 2012 *op. cit.*, 255–257.

efficient governance and administration is that the state is aware of the specificities of the languages used in its territory. The purpose of governance is to ensure the functioning of a country, which is related to the language spoken by citizens due to the previously mentioned factual conditions.

Comparing the U.S. language rules and the most relevant positive legal international norm for protecting minority languages in Europe (European Convention on Regional or Minority Languages, ECRML), it is clear that the specific normative regulation is mostly reflected in administrative instruments. Language regulation is particularly common in the following areas of public administration:

- education,
- healthcare,
- media administration,
- procedural rights (both in government offices and the administration of justice),
- preserving culture
- public signs, and
- running self-governments.

In my opinion, any legal regulation can be effective and proper if it guarantees that individuals speaking the minority language can exercise their rights and fulfil their obligations in the same way that citizens speaking the dominant language do while also allowing them to participate in the functioning of democratic institutions and preserve their language and culture.

While aiming to make public services equally accessible, states should consider the language competencies present in society and provide flexible access to the necessary interfaces (such as the abovementioned health care or education).

Establishing a legal environment which encourages the peaceful coexistence of dominant and non-dominant languages within a state is probably the most crucial task of legislation. This is a fact that even the UN reflects on in Declaration 47/135:

> "Considering that the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities contribute to the political and social stability of States in which they live…"[29]

Internal stability is a priority for all states, which is also served by the peaceful coexistence between different social groups. Proper regulation of language use and its integration into the legal system can be a tool to reduce potential social tensions and increase internal security.[30] In the twentieth century, bomb attacks and other violent actions raised the question of security in some West-European autonomous regions: South Tyrol, Corsica, the Basque Country, just to mention the most-known ones.[31] As *Noémi Nagy* puts it: "Although linguistic difference alone is not a source of conflict, […] insufficient application of language rights in practice can lead to bloody ethnic conflicts".[32]

The most recent and sad topicality of the issue of language and security is the story of Ukraine. In my view, Russia's invasion of Crimea in March 2014 is incomprehensible without addressing the situation of minorities in Ukraine. The largest minority group in Ukraine is Russian. Compared to them, other minorities (such as the Polish, Romanian, Crimean Tatar or Hungarian, for example) are insignificant.[33] That is why the Ukrainian minority law was adopted, focusing on the Russian-speaking minority while neglecting smaller minorities that were under-represented and adversely affected by the

[29] A/RES/47/135 Resolution adopted by the General Assembly on the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (emphasis added).

[30] Roe, Paul (2004): Securitization and Minority Rights: Conditions of Desecuritization. In: *Security Dialogue. 2004; 35(3)*, 279–294.

[31] Hurst Hannum: *Autonomy, Sovereignty, and Self-Determination – The Accommodation of Conflicting Rights*, University of Pennsylvania Press, 1996. 263, 370, 432.

[32] Nagy, Noémi: *A hatalom nyelve – a nyelv hatalma.* Budapest: Dialog Campus. 2019, 12., 15., 25–26.

[33] See state reports of Ukraine on the webpage of the Framework Convention on National Minorities, Council of Europe or the ECRML. https://www.coe.int/en/web/minorities/ukraine

legislation. The revolution in 2014 was also rooted in minority-related legislation,[34] more precisely: a language act, which was so controversial that the independent Committee of Experts of the ECRML expressed its concerns.[35] All this means that language minorities may cause serious tensions that, in the worst case, like in Ukraine, could undermine the state's foreign relations or at least pour oil on an already flaming fire.

6 Conclusions

The Human Being is both an individual and a communal being. As a citizen in his/her relations with the state, she/he is subject to the state's functioning and the stability and security policy thereof. Overall, therefore, the rules on the peaceful coexistence of languages should take those factors into account that are based on the reality of the state. In my opinion, a language law regulation is effective and appropriate only if it serves the purpose of enabling persons speaking a minority language to exercise their rights (even at the local level) and fulfil their obligations in the same way as citizens who speak the dominant language - while preserving their language and culture.

Flexible frameworks can be supported by a model that considers multiple aspects. Our analysis concluded that language policy for the peaceful coexistence of languages should take into account the four factors: (i) human rights, (ii) democratic institutions, (iii) good governance and (iv) security. All other minority rights or language rights measures can be derived from these.

European countries are in a special position in that the ECRML provides special protection for regional or minority languages, which makes language protection systems traceable. Looking at the language regimes of other continents, the Language Charter is appreciated,

[34] Gerencsér 2015 *op. cit.,* 153–154.

[35] Statement by the Committee of Experts of the European Charter for Regional or Minority languages on the situation in Ukraine. MIN-LANG (2014) 42. https://rm.coe.int/16806d83e1

which is becoming the key to European language protection (and linguistic research) today.

The multipolar approach explained above presupposes a change of attitude, which no longer expects a solution from a rigid normative rule (language law), but looks at society and intervenes in a differentiated way – taking into account necessity and proportionality, thereby outlining the way to establish law supporting the peaceful coexistence of languages.

Bibliography

Andrássy, György: Freedom of Language: A Universal Human Right to be Recognised. In: *International Journal on Minority and Group Rights*, 2012/2.

De Cruz, Peter: *Comparative Law in a Changing World*. London: Routledge. 1999.

Gerencsér Balázs Szabolcs: *„Nyelvében él..." Kárpát-medencei körkép a határon túli magyarok hivatalos anyanyelvhasználati jogairól*. Budapest: NSKI, Méry Ratio. 2015

Gerencsér Balázs Szabolcs: *A latínók az Amerikai Egyesült Államokban*. Budapest: Pázmány Press. 2019.

Heintze, Hans-Joachim: Autonomy and Protection of Minorities Under International Law. In: Günther Bachter (ed.): *Federalism against ethnicity?* Zürich: Verlag Rüegger. 1997.

Hannum, Hurst: *Autonomy, Sovereignty, and Self-Determination – The Accommodation of Conflicting Rights*. Philadelphia: University of Pennsylvania Press. 1996.

Kischel, Uwe: *Comparative Law*. Oxford: Oxford University Press. 2019.

Kiss, István – Magyary, Zoltán: *A közigazgatás és az emberek*. Budapest: Magyar Közigazgatástudományi Intézet. 1939.

Kontra, Miklós – Phillipson, Robert – Skutnabb-Kangas, Tove – Várady, Tibor: Conceptualising and Implementing Linguistic Human Rights. In: Kontra, Miklós – Phillipson, Robert – Skutnabb-Kangas, Tove – Várady, Tibor (eds): *Language: A right and a resource – Approaching linguistic human rights*. Budapest: CEU Press. 1999.

Kovács, Péter: Ethnic and Linguistic Minorities and International Law. In: Shelton, Dinah L (ed): *Encyclopedia of Genocide and Crimes Against Humanity*. Detroit (MI): MacMillan Press Ltd. 2004, 692–700.

Moleski, Jean: Understanding the American Linguistic Mosaic: A Historical Overview of Language Maintenance and Languange Shift. In: Lee McKay, Sandra – Wing, Sau-ling Cínthia (eds.): *Language Diversity – Problem or Resource?* Cambridge: Newbury House Publishers. 1988.

Nagy, Noémi: *A hatalom nyelve – a nyelv hatalma. Nyelvi jog* és *nyelvpolitika Európa történetében*. Budapest: Dialóg Campus. 2019.

Nagy, Noémi: Language Rights as a sine qua non of Democracy – A Comparative Overview of the Jurisprudence of the European Court of Human Rights and the Court of Justice of the European Union. In: *Central and Eastern European Legal Studies, 2018/2.*, 247–269.

Patyi, András: *A közigazgatási működés jogi alapjai*. Budapest: Dialóg Campus. 2017.

Paz, Moria: The Tower of Babel: Human Rights and the Paradox of Language. In: *European Journal of International Law*. Vol. 25. 2014/2.

Roe, Paul: Securitization and Minority Rights: Conditions of Desecuritization. In: *Security Dialogue. 2004; 35(3).*

Skutnabb-Kangas, Tove: Linguistic Human Rights. In: Lawrence M. Solan, Lawrence – M. Tiersma, Peter (eds.): *The Oxford Handbook of Language and Law*. Oxford: Oxford University Press. 2012.

Tiersma, Peter M.: Language Policy in the United States. In: M. Tiersma, Peter – Solan, Lawrence (eds.): *The Oxford Handbook of Language and Law*. Oxford: Oxford University Press. 2012.

Varennes, Fernand de: Language as a Right in International Law: Limits and Potentials. In: Richter, Dagmar - Richter, Ingo - Toivanen, Reetta - Ulasiuk, Iryna (eds.): *Language Rights Revisited – The Challenge of global Migration and Communication*. Nijmegen: Wolf Legal Publishers. 2012.

Wiley, Terrence: The imposition of World War I era English-only policies and the fate of German in North America. In Thomas K. Ricento – Barbara Burnaby (eds*.): Language and Politics in the United States and Canada*. Mahwah, NJ: Lawrence Erlbaum Associates. 1998.