

ABSTRACTS

Attila VARGA

Constitutional Rights of National Minorities in Romania in Light of the Constitutional Court's Case Law (Norms, Interpretations, Cases)

The study investigates and synthesises the conclusions derived from existing case law, relevant academic literature, and the author's professional experiences as a member of Romania's Constitutional Court. The findings show that Romanian jurisprudence's doctrinal claims define the country as a nation-state, and even though the Constitution only recognises individual national minority rights and overtly rejects the rationale for a collective approach to national minority rights, many constitutionally guaranteed rights, in fact, inherently possess a collective nature. This disparity has resulted in multiple controversies since the Constitution's adoption in 1991. Still, the validity of the above implicit approach has been reaffirmed numerous times by the Constitutional Court in its rulings, even though the Constitutional Court primarily employs a textualist approach in its rulings, refraining from activist interpretations, particularly on minority education and language usage. Finally, the Constitutional Court frequently reads minority rights through the lens of the majority, interpreting the "protection of the majority" as an intrinsic part of the "protection of equality" under the auspices of Article 6 of the Constitution.

The analysis also shows that the Constitutional Court has not traditionally served as a platform for expanding minority rights; however, in several instances, the judges have exhibited a more permissive interpretation of the Constitution to facilitate the practical implementation of implied rights, while maintaining the integrity of the nation-state. They also ensured that inquiries from national parliament members did not lead to the restriction of national minority rights established

in the Constitution. Nonetheless, a persistent dilemma remains: certain constitutional rights are either not implemented or only partially enforced, and the Constitutional Court lacks remedies for this matter.

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Anikó MÉSZÁROS

Towards EU Minority Protection: An Overview of the European Parliament's Activities Concerning National and Linguistic Minorities (2019 - 2024)

This paper examines the European Parliament's actions regarding the protection of national and linguistic minorities during the 2019-2024 legislative cycle. Given the ongoing challenges for minority rights within the EU, the paper seeks to provide a comprehensive review of the legislative and political efforts made to support minority protections, highlighting key initiatives like the Minority SafePack.

Using a detailed content analysis of parliamentary documents, committee reports, and public petitions, the paper evaluates the effectiveness of EU mechanisms aimed at safeguarding minority rights. Special attention is given to the role of the Minority Intergroup and the activities of parliamentary committees addressing minority issues, including specific legislative actions and policy debates.

The study finds that while the European Parliament has taken significant steps, such as supporting minority-related European Citizens' Initiatives and addressing issues through various committees, numerous challenges remain. Institutional limitations and varying member state commitments continue to hinder the implementation of consistent minority protection standards across the EU. However, the expanded digital accessibility of minority-focused sessions represents progress in inclusivity.

The paper hopes to contribute to understanding the European Parliament's evolving role in minority protection within the EU. It

underscores the need for further EU-level commitment and strategic alignment among member states, particularly as future legislative cycles consider comprehensive frameworks to better integrate and protect minority rights across the Union.

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Xabier EZEIZABARRENA

Scottish Devolution & Basque Historical Titles: Two Nations Searching for Co-sovereignty?

This study explores the legal and political intersections between Basque Historical Rights and Scottish Devolution, investigating their roles within broader frameworks of co-sovereignty and constitutional recognition by the UK, Spain, and the European Union (EU). The analysis underscores these frameworks' potential to foster mutual recognition and co-sovereignty, particularly as each seeks constitutional acknowledgement and enhanced self-determination.

This paper employs a comparative legal and political analysis to examine historical and current legal structures, political doctrines, and constitutional clauses relevant to Basque Historical Rights and Scottish Devolution. Key sources include both primary constitutional provisions, such as the First Additional Clause of the Spanish Constitution, and secondary sources from legal scholars. The analysis is further contextualised within the evolving EU framework, emphasising how devolution and self-determination issues align or conflict with EU principles.

The study identifies commonalities and contrasts in the Basque and Scottish self-determination processes, highlighting the role of historical rights as a basis for co-sovereignty. Scottish Devolution provides a framework for partial autonomy within the UK, while Basque Historical Rights are constitutionally recognised but face implementation challenges in Spain. Both cases demonstrate the need for EU acknowledgement of sub-state autonomy, where frameworks like Germany's and Belgium's offer potential models.

The paper contributes to the field with a novel comparative perspective on the topic of co-sovereignty within the EU. By juxtaposing the Basque and Scottish experiences, it proposes that historical rights frameworks might support broader EU integration without compromising local autonomy, offering insights into the complexities of sovereignty, historical recognition, and democratic participation in supranational entities.

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Francisco BOUZA SERRANO

Galician Language and Identity Today - Can Legal Protection and Promotion Save a Language?

This research examines the framework that protects the Galician language and evaluates its success through changes in knowledge acquisition over time. The study starts with an overview of Galician history from the decline of the Roman Empire through the Visigoth Kingdom, the establishment of Portugal, Galicia's incorporation into León, and subsequently Spain, culminating in the Franco regime and contemporary democracy. The legal framework of democratic Spain is examined concerning language regulations, beginning with the Constitution, the Statute of the Autonomous Community of Galicia, and several statutes of Galicia. These latter sources grant the region's institutions autonomy over certain critical elements of culture, language, and governance; however, the state constitution explicitly stipulates that no Spaniard is obliged to study the languages of the historic nationalities. Consequently, this regulatory framework significantly hinders regional authorities from promoting the use of Galician. The persistent inequality between the two languages, despite their formal parity, exacerbates the ramifications of centuries of oppression and negative public perceptions of Galician, associated with poverty and social regression. This has resulted in the continuous decline of the Galician language,

which has, for the first time in 2023, become a minority language in Galicia in terms of the number of speakers. Recent developments also show a shift in the core of the Galician national identity, wherein language retains a symbolic, albeit increasingly diminished, significance.

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Krisztián MANZINGER

Judgement of the European Court of Human Rights of 24 July 2024 in the Djeri and Others v. Latvia Case (50942/20 and 2022/21)

The Djeri and Others v. Latvia is the third case concerning education to be adjudicated by the European Court of Human Rights. In previous years, the Court issued two judgments concerning the ongoing Latvian education reform. The first pertained to public schools, while the second to private educational institutions. Both judgments underscored that, contingent upon ensuring access to the minority language and culture, the Latvian legislator is authorised to implement mandatory state language instruction, since a comprehensive understanding of Latvian is essential for social inclusion. These judgments offered reassurance to Latvia, which reestablished its statehood in 1991 and has since sought to eradicate all remnants of Soviet rule while advancing policies to bolster the social status of the Latvian language.

In the Djeri and Others v. Latvia case the Court examined another aspect of the Latvian education reform, that of preschool education. The judges highlighted that the initial phase of preschool is optional, allowing parents to choose whether to utilise state assistance, which focuses on early Latvian language acquisition. Conversely, the subsequent mandatory phase aims to prepare children for school, necessitating an enhancement of their Latvian language proficiency.

Although Latvia's intentions to enhance social integration, threatened by the consequences of Soviet occupation and colonisation, are

completely understandable, the Court's jurisprudence has constituted a damaging interpretation of the social integration of national minorities. The rationale for this is that, although proficiency in the state or majority language is essential, the presumption that it is the exclusive means of social integration appears misguided.