



## MINORITY LANGUAGES IN KOSOVO



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### ABSTRACT

The paper includes the legal aspect and political harmonization of human rights and freedom in the context of an analysis about the legitimate and executive function of the state of Kosovo. Guaranteeing civil rights it's a part of an obligation that Kosovo institutions have, that are accorded in the legal structure of the fundamental human rights. This approach, mostly has to do with the majority community in Kosovo, that legally and politically are constitutional category.

## 1. INTRODUCTION

The positive right in Kosovo has defined the rights and freedoms for the citizens of Kosovo. The use of languages in central and local level is a continuous process of legislative and practical advancement. The legislation it treats the use of languages by being supported of one of most rights of all communities for the presentation, protection and promotion of cultural identity. All the rights have the source in: European Convention on human rights and freedoms, Convention on the protection of Minorities, Convention Advisory Committee on the Protection of National Minorities Thematic commentary, nr.3, for the languages rights of the people that belong to the minorities, that was approved in May 24,2012. European Cards for regional or Minority languages, that was approved in Strasbourg on November 5th 1992, Oslo's recommendations for minority languages of high Commissariat for minorities etc. In domestic law, the Parliament of Kosovo has approved the law of languages use, and other laws that are linked with languages use, documents, administrative instructions that realize the official use of languages of the majority and non-majority communities. In this paper are used: historical methods, analytical methods and comparative methods.

## 2. MINORITY LANGUAGE IN KOSOVO- INTERNATIONAL DOCUMENTS

The case of languages use, has stimulated various discussions in local and international circles that are in Kosovo, by knowing the political status of non-majority communities and legal position accorded with international standard, currently the Kosovo legislation is supported on the base of an international plan supported in the changes that has happened in Kosovo, on 1989\1999. If we are based by the principles of international legal acts that were mentioned before. By being based on the international documents, it's important to review some of them. European Card for the Regional languages or Minority is one of the international documents that is obligated for implementation. The card has defined the minority languages in two aspects: first aspect as a language that has been talked traditionally within an defined territory and in the second aspect as an group that numerically is smaller than the other population of that state. Other specifications that are about the difference between the languages and majority language by dialect and from the official language itself too <sup>1</sup>. Accorded to the obligations for implementing this Convention, the article 2 has obligated the states to respect at least 35 paragraphs or subparagraphs of the third part of the Card, at least chosen by the article 8 and 12 and one of the article 9-12 of card.<sup>2</sup> Has been defined the obligations of each state for taking actions for implementation of the Card, through composition of legal provisions purposely, the given support for the regional language use or minorities in court institutions, administrative and educational. By being based on predefined targets and principles by article 2 paragraph 1, of the Card, article 7 has obligated the member states by defining the legislation for implement action of Card, not just only to accept but to support the regional language in the establishment aspect of concrete actions with a purpose to keep saved and to be continued, and easier to use by securing means and different forms for using them in public and institutional life<sup>3</sup>. The purpose of this international act is to make the full secure of minorities language use in social life, by beginning from the court administration, education etc. The Card gives to minorities education of all levels, the opening of a TV channel, newspaper and other media<sup>4</sup>. The recommendations of Oslo had a purpose on the situation on the former Yugoslavia. The purpose of this recommendation was to avoid ethnic clashes. Based on this the purpose of Oslo recommendations necessary is to secure the rights of minorities by their using aspect in legal system that is necessary. The base of these recommendation are: the universal declaration of human rights, ECHR and the international pact of civil and political rights. In these documents the dignity of people is guaranteed, the freedom of talking and equal participation in the social life of minorities. The universal statement accurately defines the social level of the individuals by putting his dignity obviously in relation to rights. The civil and political rights conventions in article 2 requires states to sanction these rights for strengthening of legal relations within the state<sup>5</sup>. The Convention for civil and political rights guarantees to minorities the right of language use no matter of their number<sup>6</sup>. An important international document is UN statement for the rights of persons that belong to national or ethnic minorities, religious and linguistic, that guarantees the languages use privately and publicly without any discrimination<sup>7</sup>. Kosovo in its legislation, in continuity tries to fulfill its international obligations. This is more obvious by community representation in political and legal institutions and its involvement from pre-primary education to university level. In general, Oslo's recommendations are accorded to their guaranteed social and public life through their participation on their actions, Kosovo in legislation has legally accepted a large number of rights that comes from Oslo's recommendations as are: the right of name use, names of their ancestors and surname on their own language, practicing faith publicly especially funerals and their marriages with religious rites. Their organization in NGO, employment and their language use in public administration and in court, establishment of cultural education and their financing, etc<sup>8</sup>. As it belongs to administration institutions of court, the language use of minorities and the rights in public documents in their priorities of Kosovo state. These rights are accorded to fundamental rights<sup>9</sup>. The activity that the Republic of Kosovo is going about the languages use of minorities its legal

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<sup>1</sup> European card for Regional and minorities language, article 1

<sup>2</sup> Right there article 2

<sup>3</sup> Right there article 7

<sup>4</sup> Right there article 8,9,10,11

<sup>5</sup> Universal statement for human rights, article 1

<sup>6</sup> Civil Conventions for Civil and Political Rights, article 27

<sup>7</sup> The UNO statement for individual rights that belong to national or ethnic, religious and linguistic minorities

<sup>8</sup> The Copenhagen Document paragraph 32.2

<sup>9</sup> As there, articles,5-21

structure. Parliament of Kosovo has approved the basic Law, for languages use. The law came into force at 2007. Law into force, being based on international legal acts, minority communities, have guaranteed the language identity and creating a living environment in Kosovo. According to constitution of Kosovo as official languages are considered Albanian language and Serbian language<sup>10</sup>. In local level, official languages are considered those languages that consist a population in more than 5%. Turkish language makes an exception because of talking tradition of this language in Prizren and surroundings.<sup>11</sup>

### 3. LAW ENFORCEMENT PROCEDURES FOR THE USE OF LANGUAGES IN KOSOVO

The Kosovo state has defined procedures for law enforcement for languages use in Kosovo by securing their rights to ask for services in their own languages if their language is one of the languages that are considered official languages in local level. All institutions, public enterprises and socially owned ones are obligated to implement language equality<sup>12</sup>. The Law for languages in Kosovo has given enough space for languages use to minorities in state bodies in central and local level. Articles 12-18,19-24,27,28-30 guarantee each citizens rights in personal registry in public registry, the foundation and the holding of legal subjects, cultural associations etc<sup>13</sup>. Practice implementation of law and normative acts about languages use in Kosovo has enabled and given some recommendations. One of the recommendation is the offer of different courses for civil service for knowing languages through municipalities etc<sup>14</sup>. The law against discrimination has put in equal position all citizens in social life in Kosovo. The law applies for legal subjects in public and private sector, including public bodies that infringe all guaranteed rights by this law<sup>15</sup>. In social work and education is an obvious affirmation of these rights by knowing the number of minorities in Kosovo. By Fonds report about Humanitarian law in Kosovo that has presented the official information taken of OSCE. Numerically the largest national minority in the Republic of Kosovo is the Serb community with 1.72%, Bosnian with 1.72, Turkish with 0.70% etc. The human rights Fund in Kosovo has monitored the presence of minorities in institutions and public enterprises of minorities in Kosovo, overseeing anti-discrimination law enforcement have been through the minorities employment and legal acts that these institutions realize. In this 2007 report they found that the largest number of employees in public enterprises is in Prizren with 36% of general number at least in the water supply enterprises in Mitrovica with 5-1%. In Prizren according to judgment of constitutional Court of Kosovo has been changed the emblem of commune and have been included 3 languages as official language in commune. The emblem have already been as a symbol of presentation of all communities that lives in the municipality of Prizren. In commune level have been officially used the languages that are spoken in Prizren<sup>16</sup>. In USAID projection with the title: "Action plan for improving the quality of language use in the Municipality of Istog" has been analyzed by statistical and analytical side of the communication level for social development. This project has analyzed the chance of citizens themselves -awareness for realization of their rights for speaking their language just like the cooperation with representatives of relevant institutions. By statistical aspect the report provided a table of ethnic composition of Istog municipality taken from Kosovo Statistics Agency.

- 1) Albanian:36,1542
- 2) Egyptians:1,544
- 3) Bosnian:1,142
- 4) Serbian:194
- 5) Ashkali:111
- 6) Romanian:39
- 7) Turkish:10
- 8) others:45
- 9) Unspecified:50

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<sup>10</sup> Constitution of Kosovo, articles 5-6

<sup>11</sup> Administrative guidance,2007\06

<sup>12</sup> Administrative guidance number 2011\02

<sup>13</sup> The law for languages use number 02\L-37, articles,12-18,19-24,27 and 28-30

<sup>14</sup> The politics of Kosovo languages, implementation in public relations, September,2011

<sup>15</sup> Law against Discrimination nr 2004/3, article 4

<sup>16</sup> Qemajl Kurtishi against Prizren municipal Assembly, the judgment of the Constitutional Court March 18,2010,paragraph 54-56 case number, Ko 01/09,nr.ref.verdict 07/10

According to the office for communities and returns at least 2,316 serbians and 1,670 Egiptians lives in this municipality. The project was focused in the overseeing practical implementation of laws on languages and other legal documents in force. The project "Support the commissioner's of official languages in 12 program partner municipality of USAID To Advance Kosovo together"

One of the main activities had the "secret client". The project was based in availability of information in official languages, the culture of communication and the communication via email. During project implementation, from secret consumers was requested to value the availability and general culture of municipal officials for communication and the request for information through email. About this communication culture those who were responsible for this project, noticed the existence of translators, communication in consumer's language in Istog municipality. The forms were in two languages, secret costumer, during the contacts with municipal officials has noticed that most of official talk official language. The answer in emails sent in municipality in the minority language of the municipality it has become the mother language of secret costumer. All of this shows the serious connection of Kosovo Republic achieving linguistic equality in all its territory<sup>17</sup>. Regarding to local languages use in public enterprises has remark about logos at the entrance of enterprises invoices etc . Competitions are published in all official languages<sup>18</sup>. The OSCE annual reports for the implementation of law for language use from Kosovo's municipality especially those from 2008, notice difficulties but progress about the minorities language use. Positive example is Prizren municipality that in 2007 has approved regulations for languages use of minorities as official language in local level. The report has evidenced shortcomings regarding to communication difficulties between majority and non-majority community in public institutions, the lack of opinion information for the chance of languages use in municipality etc. The special thing about this report is the lack of translations in official documents of local languages from the survey with different residents in Kosovo's municipality and there are noticed difficulties in understanding documents that are issued from municipality institutions only in Albanian and Serbian languages. The report emphasize the lack for translators and professional translate of official documents in the languages of other communities<sup>19</sup>. An important mechanism to advance human rights standards it's the Regulation nr.07/12 for office of the Language Commissioner, approved by the Government of the Republic of Kosovo about the establishment, function and the way of work of this office. The office operates under the direction of the Language commissioner that is responsible for the office management and the implementation competencies<sup>20</sup>. The office supports two mechanisms Language Policy board and Language policy network. According to this regulation, the office has competence in law enforcement with the purpose of maintaining promotion and the protection of official languages use in the Republic of Kosovo, of languages in municipality level and the community languages that do not have a mother tongue one of the official languages.<sup>21</sup> Jurisdiction of the office includes the languages use in institutions of the Republic of Kosovo, organizations and other companies that practice public functions. According to authorizations, the office has the authority to monitor the compliance of the law the institution recommends and mediates about for drafting new regulations or Administrative instructions. According to its authorizations, the office also has powers to conduct investigations on its own initiative or based on submitted complaints from physical or legal persons. The office offers some advices or help for public, about their rights by law, for languages use, public awareness of citizens etc<sup>22</sup>. Definitely, law mechanism range and an expanded legal infrastructure has made that minorities languages as a part of their rights to be fully completely equal with majority, in Republic of Kosovo too. In this aspect, the level of political rights and freedoms, civil, economic etc. of minorities often overcome the level of numerical and geographical proportion within the territory of Republic of Kosovo. In the practical aspect of surveillance of implementation of laws in Kosovo connected with language use of minorities is still lacked. These flaws are because of unprofessionalism, the lack of financial, negligence of persons, competent local authorities or institutions. Some organizations that are present in Kosovo, has published written reports that are about technical

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<sup>17</sup> The action plan for improving the quality of language use in municipalities Istog, USAID,2016 page 2-6

<sup>18</sup> FHR law enforcement against discrimination, and the law on the use of languages in public enterprises in Kosovo, Prishtina 2007

<sup>19</sup> OSCE, monitoring department, implementation of the law on the use of language through the Kosovo's Municipalities, Prishtina,2008

<sup>20</sup> Regulation for the office of the language commissioner, nr.07/12, article 3,paragraph 2

<sup>21</sup> Article 16 paragraph 1

<sup>22</sup> Article 17

flaws or professional of legislation translations in Kosovo. We can notice this in periodic reports of NGO and International Organizations that are present in Kosovo. From ECMI Kosovo report, that is the main non-governmental organization dealing with minority issues in Kosovo, October 201 with title: "Towards linguistic quality of Kosovo legislation in Serbian language-a step in filling gaps in implementation of Law on the use of Languages" it's obvious that it has evident inaccuracy of Kosovo legislation, that are translated in Serbian languages. Researches are done from office of the language Commissioner, offices of the Prime Minister of Kosovo in cooperation with OSCE, nongovernmental organizations and local newspapers. The research made by Serbian newspaper Vesti, have found about 4,500 mistakes in a sample of different laws translated from Albanian language to Serbian language and about 5,500 mistakes in the translation in Serbian language of Kosovo Penal Code, including an grammar mistake in its own title (Petkovic,2014;Petkovic,2015) these mistakes are simple grammar mistakes where is obvious combination of words in Bosnian and Croatian language. The mistakes are noticed even in inadequate words use, release of fragments and meaningless formulations<sup>23</sup>. The lack of professional translators it's about the impossibility of paying them based on their qualifications because the Government employs translators of second category<sup>24</sup>. The reason of this problem is the ability and qualifications of translators in English, Albanian and Serbian languages, because laws first are compiled in English language since the time of UNMIK. Because of these lacks the translators of laws in Serbian language as a final version they took it in English language. So the concrete problem it's not in the implementation of Kosovo's Republic obligations, for insurance and guarantee of the languages rights of minorities but in the risk that the practical implementation of the law has, because of the professional divergences that a law that is translated in different languages has. The report goes to the political level by drawing attention that this kind of opposition it may be the reason for the legitimacy fluctuate the of the state of Kosovo in the eyes of Serbian minority. The lack of quality translations, may exclude communities by providing quality services that can bring in legal uncertainty that can produce tense situations.<sup>25</sup> Except for the obvious remarks, this report overcome the professional aspect expanding into the political one. The report is based on statements and findings of the representatives or employees of the Serbian community in institutions of Republic of Kosovo and Serbian NGO in the north of the Republic of Kosovo. This is obvious from the footnotes of this report. Even if this report has highlighted the obvious linguistic deficiencies as a communication tool with the institutional, I guess and believe that mostly has to do with the relationships between the speakers of the majority and minority language. Thematic commentary nr 3 of the Convention's Advisory Committee for the Protection of Minorities related to language rights of persons that belong to international minorities approved in May 24,2012, emphasizes the fact that in many countries of Europe, we have to do with the concern for language divisions that are used for political reasons. Refusal of alignment and for understanding languages of communities in the territory where the lack of tolerance that is promoted from political discussions<sup>26</sup>.

#### 4. CONCLUSION

The use of languages in Kosovo consists one of many rights that Constitution of Kosovo guarantees to minorities and even if the most of the time it overcomes the default level of rights according to National rights. This kind of level of standardization of these rights, often has stimulated debate about it, if human rights and freedoms are connected with ethnic groups, or national etc. or according the civic concept of state rule of Kosovo, the extension of these rights

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<sup>23</sup> ERAC includes together (7) NGO that works in the field of rule of law and fundamental rights, that works together with 19 NGO, by focusing on establishing a sustainable NGO network, that are active in protecting and promotion of the fundamental rights of vulnerable or marginalized groups. The project specificity are non-majority communities women, youths, and the LGBT community.

Even if they work or act in similar cases, to these NGO it lacks the cooperation and often the concentration of their work is separated based in special groups, that work with them, or separated according to regions where they extend their activities.

<sup>24</sup> The Report of ECMI, Kosovo, towards linguistic quality of legislation of Kosovo in Albanian and Serbian language.

\*A step in the filling the groups in implementing the Law on the Use of Language, Pristina October 2018, page 10-14

<sup>25</sup> Page 16-17

<sup>26</sup> Thematic commentary nr.3 of the Convention Advisory Committee accorded for protection of minorities that is about the languages rights of the persons who belong to national minorities, point 2.2, part 35, Strasbourg 5 July 2012, approved in May 24<sup>th</sup>,2012 page 13

it has to be through the supranational concept that it means to obstruct the risk, that it causes ethnic separation with the territory of Kosovo.

For example, the minority languages which in local level they don't have adequate representation. As practical examples are municipalities of Kosovo where the present of Serbian minority is almost 0%, and other minorities have considerable percentage and the Serbian languages use in local level is almost unnecessary. In a lot universities in Kosovo, Serbian language is not taught as long as documents are issued in this language as well.

## 5. RECOMANDATIONS

In local level, as official languages will be only those languages where minorities live and use this language.

- In northern municipalities of Kosovo (In cooperation with international mechanism) to be put into official use, same as languages that are in municipality that has a lot of Albanians, and
- In primary and secondary schools where minorities teach, alongside their education in the mother tongue in the capacity of the non-native language as official language of majority to be taught the Albanian language and
- Official documents certifications school and University diplomas etc. to be released in the language of the students or the student that belong to ethnic minorities group.

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## CONFLICT OF INTEREST

The author have declared that no competing interests exist.

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