

# **The Right to Use a Minority Language in European Law**

## **Key words**

Minority languages, European Union, Council of Europe

## **Summary**

The purpose of my thesis is to describe and analyse the right to use minority languages in the Council of Europe and in the European Union. The change of lifestyle and globalisation lead to the increased pressure on the European minority languages, from which many occur in the *Atlas of the Worlds' Languages in Danger* published by UNESCO. It is the description of the starting points and possibilities of the law protection, primarily on the ground of the two above mentioned international organisations that could reverse a rather unfavourable development in this area, which form the basis of this paper. The attention is paid to the positive rights of so called traditional minorities; the prohibition of discrimination is mentioned only marginally, as well as the problem of migrants' languages and related topics.

First part of the thesis is focused on the description of bases of the language law and politics and their relation to the protection of (national) minorities, whose part is the right to use minority languages, as well as the analysis of the single components of this right. First chapter brings an overview of the legal regulation of minority rights in the context of the European historical development. Second chapter deals with efforts to define the central term – the minority. Third chapter discusses the particulars of the minority language protection and defines selected basic terms. Fourth chapter focuses on further research into the individual components of the minority language protection right on the basis of analysis of relevant international conventions, supplemented with explanatory reports and relevant case-law if needed. Fifth chapter presents the concept of collective rights and its eventual (non-)exercising in the context of the linguistic rights of minorities.

Second part of the thesis considers the possibilities and legal instruments of the protection of minority languages and language diversity in the Council of Europe and in the European Union. In the chapters presenting the Council of Europe the emphasis is placed on the relevant case-law of the European Court of Human Rights with regard to the indirect protection of minority languages secured through the European Convention for the Protection

of Human Rights and Fundamental Freedoms, and two specialised conventions: the European Charter for Regional or Minority Languages and Framework Convention for the Protection of National Minorities. The European Union does not dispose of any specialised instruments for the protection of the minority languages; therefore the focus of relevant chapters is extended to the linguistic diversity in general with emphasis on the role of lesser-used languages. The main focus is laid on current development. Besides the language regime of the European Union and the evaluation of the primary and marginally the secondary law in the field of lesser-used languages, the thesis deals also with activities of the individual institutions and the relevant politics of the European Union.

The existence of minorities is a question of facts, not of law. Not otherwise it is in the case of minority languages. The minority language protection is an integral part of the minority protection, and therefore it faces similar problems. The definition of the term “minority language” is mostly absent, to the considerable extent it is a political decision, which is always necessary to relate to some referential unit. A state, or an international organisation with a supranational character, has a quite strong influence on the development or extinction of a minority language; however, the linguistic community itself and its will play always the main role. Language policy supporting the minority languages can be expensive, but there are considerable political, economic and cultural-social grounds to its active support. From the viewpoint of the law, it is possible to employ the norms protecting and supporting minority languages directly, for instance the topographical signs, or the norms which protect the languages indirectly, for instance the right to respect for private life. The minority language can be also protected by local government or personal self-government. The concept of collective rights is very problematic with regard to minority languages. Control mechanisms are in the overwhelming majority of cases set only in favour of individuals.

The possibilities of the Council of Europe and of the European Union differ very much. The Council of Europe has brings two above mentioned specialised conventions, but even these are not completely sufficient. Both the traditionally conceived Framework Convention and newly conceived Charter of minority languages, which completely divides the protection of the language from the protection of the speaker of given language, are criticised; they do not imply the subjective rights directly, and the control mechanism is based on states' reporting. The European Union has no special instrument for minority languages protection because of the lack of competence. Besides regulation of its own language regime and some supporting and co-ordinating competencies in the field of education and culture, which create the base for funding programs, also the negative integration is significant for

language diversity, especially in connection with the creation of the single market and related measures. Although the Lisbon Treaty did not bring a big revolution in the minority protection, it can be said that also due to the obligatory force of the Charter of Fundamental Rights of the European Union the base was created for further positive development in this field.