



17.9.2024

NOTICE TO MEMBERS

Subject: Petition No 1109/2023 by Roman Roblek (Austrian), on behalf of Slowenisches Info-Center, Enotna Lista, Narodni svet koroških Slovencev, Zveza slovenskih organizacij and Skupnost koroških Slovencev in Slovenk associations, on safeguarding minority rights in Austria

1. Summary of petition

The petitioner expresses deep concern over the inadequate implementation of minority rights in Austria, specifically focusing on the Slovene minority in Carinthia. Despite constitutional and international protections, the petitioner argues that there are significant deficiencies in the areas of education, jurisdiction, and administration, leading to erosion of language and culture, violations of the rule of law, and inadequate protection of the minority language. The petitioner highlights various issues, including the lack of implementation of regulations for bilingual education, insufficient provisions for bilingual elementary teachers, and the absence of bilingual education in certain types of schools. He considers that there are critical problems in the judicial system as well such as limitations on the use of the Slovene language and a lack of bilingual staff in the Courts. He also outlines shortcomings in the use of the Slovene language in public administration, emphasizing the need for clear legal regulations and bilingual staff requirements. According to the petitioner, Austria has not fulfilled its obligations under the State Treaty of Vienna and international agreements on minority protection. He draws attention to various articles in the Austrian Federal Constitution, the State Treaty of St. Germain, and the State Treaty of Vienna, stressing the need for comprehensive protection of the Slovene minority's cultural identity and language. He also underscores the significance of minority rights, linguistic diversity, and cultural preservation in the European Union in light of European law principles, mentioning the Treaty of Lisbon as a milestone and referring to various EU documents emphasizing linguistic diversity and education.

The petitioner therefore calls on the European Parliament to support efforts in safeguarding minority rights in Austria by urging Austria to honour its commitments, to implement

necessary legal provisions, and to address the identified shortcomings in education, judiciary and administration.

2. Admissibility

Declared admissible on 28 February 2024. Information requested from Commission under Rule 223(5), former Rule 227(5).

3. Commission reply, received on 26 August 2024

Respect for cultural and linguistic diversity is one of the fundamental principles of the EU, enshrined in Article 3 of the Treaty on European Union. Within the remit of its competences, the Commission ensures the respect of fundamental rights. Article 21 of the Charter of Fundamental Rights of the European Union ('the Charter') prohibits any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation.

However, under the Treaties on which the European Union is based¹, the Commission has no general powers to intervene with the Member States in the area of fundamental rights. The Commission can only do so if an issue of European Union law is involved, as, according to Article 51(1) of the Charter, its provisions are addressed to Member States only when they implement EU law.

The Treaty on the Functioning of the European Union (TFEU) provides in its Articles 6 and 165 that the Union fully respects the responsibility of the Member States for the content of teaching and the organisation of education systems in the area of education and only has a competence to carry out actions to support, coordinate or supplement the actions of the Member States.

The result of such a division of powers is that, in the field of education, the EU may only help Member States achieve better results, but it cannot remedy potential shortcomings of their educational systems or intervene in their handling of the educational affairs. In particular, school curricula and the teaching materials pertain to the 'content of teaching' and therefore the Member States are primarily responsible for these matters.

As regards the use of language in public administration and courts, these matters, and in particular the organisation of national justice systems and administration, fall primarily under the competence of Member States. Under the Treaties on which the European Union is based, the Commission has no general powers to intervene in the day-to-day administration of justice in individual Member States.

In this context, having particular regard at the grievances the petitioner raises in relation to the use of the Slovenian language in courts, the Commission attaches great importance to the respect for the procedural rights of suspects and accused persons. Based on proposals by the Commission, the European Union has, since 2010, adopted six Directives, aiming at a high

¹ Treaty on European Union and Treaty on the Functioning of the European Union.

level of fair trial rights². In particular, Directive 2010/64/EU requires the Member States to ensure that suspected or accused persons who do not speak or understand the language of the criminal proceedings concerned are provided with interpretation and translation, at least of all essential documents.

While contributing to ensuring the right to a fair trial and the rights of defence as enshrined by Articles 47 and 48 of the Charter in all Member States, this Directive does not regulate the use of another language in the judiciary in general.

In such situation falling outside the scope of EU law, it is thus for the national authorities of Member States, including their judicial authorities, to ensure that fundamental rights are effectively respected and protected in accordance with their national legislation and international human rights obligations. It is for Member States in particular to use all the legal instruments available to them to guarantee that fundamental rights of national minorities living on their territories are complied with, including the relevant instruments of the Council of Europe, such as the Framework Convention for the Protection of National Minorities or the European Charter for Regional or Minority Languages.

Conclusion

The matter referred to in the petition does not appear to be related to the implementation of EU law. In such cases, it is for Member States, including their judicial authorities, to ensure that fundamental rights are effectively respected and protected in accordance with their national legislation and international human rights obligations.

In particular, anyone who considers that her or his rights or freedoms guaranteed by the European Convention on Human Rights have been violated, may lodge a complaint with the European Court of Human Rights, after all domestic remedies have been exhausted.

² Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings; Directive 2012/13/EU on the right to information in criminal proceedings; Directive 2013/48/EU on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty; Directive (EU) 2016/343 on the strengthening of certain aspects of the presumption of innocence and the right to be present at the trial; Directive (EU) 2016/800 on procedural safeguards for children who are suspects and accused in criminal proceedings; Directive (EU) 2016/1919 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings.