



Under the auspices of:
National Assembly of the Republic of Serbia



With the support of:
The National Academy for Public Administration

Law on General Administrative Procedure: Contemporary Tendencies and Challenges

Thematic Collection



Belgrade, 2024

**Law on General Administrative Procedure:
Contemporary Tendencies and Challenges**
Thematic Collection

Scientific Committee:

Prof. Marko Davinić, PhD, Faculty of Law, University of Belgrade, Chairman;
Prof. Stevan Lilić, PhD, Faculty of Law, University of Belgrade, University UDG,
Podgorica; Prof. Dobrosav Milovanović, PhD, Faculty of Law, University of Belgrade;
Prof. Zoran Lončar, PhD, Faculty of Law, University of Novi Sad; Prof. Vuk Cucić,
PhD, Faculty of Law, University of Belgrade; Prof. Polonca Kovač, PhD, Faculty of
Public Administration, University of Ljubljana; Prof. Vedran Đulabić, PhD, Faculty of
Law, University of Zagreb; Scientific Advisor Jelena Čeranić Perišić, PhD, Institute of
Comparative Law, Belgrade; Senior Research Associate Aleksandra Rabrenović, PhD,
Institute of Comparative Law, Belgrade; Prof. Milija Bogavac, PhD, MB University,
Belgrade; Prof. Dejan Milenković, PhD, Faculty of Political Sciences, Belgrade

Reviewed by:

Prof. Đordije Blažić, PhD, Faculty of Government and European Studies in Podgorica;
Prof. Borče Davitkovski, PhD, "Justinianus Primus" Faculty of Law, Ss. Cyril and Methodius
University in Skopje;
Prof. Jovanka Jakubek Lalik, PhD, Faculty of Law and Administration, University of Warsaw

Edited by:

Prof. Srečko Devjak, PhD, MLC Faculty of Management and Law Ljubljana
Prof. Predrag Dimitrijević, PhD, Faculty of Law, University of Nis

Proofreading by:

Translation Agency "Dobar prevod", Belgrade

Technical editing by:

Milena Momčilov, PhD Candidate

Printing:

Eurosfera & Partners, Belgrade

Printing:

100

Publishers:

Eurosfera & Partners, Belgrade
The Institute of Comparative Law, Belgrade
MLC Faculty of Management and Law Ljubljana

On behalf of publishers:

Prof. Mihajlo Rabrenović, PhD
Prof. Jelena Čeranić Perišić, PhD
Prof. Srečko Devjak, PhD

Publishing a publication helped by:

Eurosfera & Partners, Belgrade;
The Institute of Comparative Law, Belgrade; MB University, Belgrade

Address of the Editorial Board:

Eurosfera, Belgrade 11090, 4-B Susedgradska St.
tel. +381 11 40 94 920; e-mail: sekretarijat@eurosfera.org
web: www.eurosfera.org



Покровитељ:
Народна скупштина Републике Србије



Уз подршку:
Националне академије за јавну управу

Закон о општем управном поступку: **Савремене тенденције и изазови**

Темајски зборник



Београд, 2024

Закон о општем управном поступку:
Савремене тенденције и изазови
Темајски зборник

Научни одбор:

Проф. др Марко Давинић, Правни факултет Универзитета у Београду, председник; проф. др Стеван Лилић, Правни Факултет Универзитета у Београду, УДГ, Подгорица; Проф. др Добросав Миловановић, Правни факултет Универзитета у Београду; проф. др Зоран Лончар, Правни факултет Универзитета у Новом Саду; проф. др Вук Цуцић, Правни факултет Универзитета у Београду; проф. др Полонца Ковач, Факултета за управо – Универза в Љубљани; проф. др Ведран Ђуладић, Правни факултет Универзитета у Загребу; научни саветник др Јелена Ђеранић Перишић, Институт за упоредно право у Београду; виши научни сарадник др Александра Рабреновић, Институт за упоредно право у Београду; проф. др Милија Богавац, МБ Универзитет у Београду; проф. др Дејан Миленковић, Факултет политичких наука Универзитета у Београду

Рецензенти:

Проф. др Ђорђије Блажић, Факултет за државне и европске студије, Подгорица
Проф. др Борче Давитковски, Правен факултет „Јустинијан Први“
Универзитет „Св. Кирил и Методиј“, Скопје
Проф. др Јованка Јакубек Лалик, Wydział Prawa i Administracji,
Uniwersytet Warszawski, Warszawa

Уредници:

Проф. др Срећко Девјак, MLC Fakulteta za management in pravo Ljubljana
Проф. др Предраг Димитријевић, Правни факултет Универзитета у Нишу

Лектура:

Агенција за превођење „Добар превод“, Београд

Технички уредник:

Докторанд Милена Момчилов

Штампа:

Eurosfera & Partners, Београд

Тираж:

100

Издавачи:

Eurosfera & Partners, Београд
Институт за упоредно право, Београд
MLC Fakulteta za management in pravo Ljubljana

За издаваче:

Проф. др Михајло Рабреновић
Проф. др Јелена Ђеранић Перишић
Проф. др Срећко Девјак

Објављивање публикације помогли су:

Eurosfera & Partners, Београд;
Институт за упоредно право, Београд; МБ Универзитет, Београд

Адреса редакције:

Eurosfera & Partners, 11090 Београд, Суседградска 4-Б
Тел. 011 40 94 920; електронска пошта: sekretarijat@eurosfera.org
Веб: www.eurosfera.org

Milica V. Matijević*
Ana Zdravković**

USE OF MINORITY LANGUAGES IN ADMINISTRATIVE PROCEEDINGS IN SERBIA

Abstract

The paper explores the implementation and challenges of minority language use in administrative proceedings in Serbia. Rooted in robust legal guarantees, the Serbian legal framework provides for the official use of minority languages, yet its practical application reveals persistent obstacles. Through an examination of the reports and case law of the state bodies, the paper singles out and analyzes the most evident challenges to the effective use of minority languages in administrative proceedings: the absence of basic prerequisites for conducting administrative proceedings in a timely and efficient manner in minority languages and an insufficient number of civil servants with adequate command of these languages. The paper proposes further institutional and policy interventions that might enhance the realization of this linguistic right of minorities in Serbia.

Keywords: Linguistic Minority Rights, Official Use of Minority Languages, Minorities in the Republic of Serbia, Law on Administrative Procedure, Administrative Proceedings.

1. Introduction

Over the last two decades, Serbia has adopted a whole new set of legal provisions on the official use of minority languages. The major part of these changes was triggered by the process of stabilization and association with the European Union and the growing relevance of the pan-European instruments for minority protection. The main *raison d'être* of the legislative interventions was the preservation of minority languages spoken in Serbia and, hence, of the linguistic identity of its national minorities.

* Institute of Comparative Law, PhD, Research Fellow, ORCID: 0000-0002-2459-9201. This paper is a result of the research conducted at the Institute of Comparative Law, financed by the Ministry of Science, Technological Development and Innovation of the RS under Contract No. 451-03-47/2023- 01/200049.

** Institute of Comparative Law, LLM, Research Assistant; Faculty of Law of the University of Belgrade, Researcher of the Center for Legal Fundamentals. ORCID: 0000-0001-7514-8892. The part of the research conducted by A. Zdravković was done through the Horizon Twinning project "Advancing Cooperation on The Foundations of Law – ALF" (Project No. 101079177), financed by the European Union.

The use of minority languages in administrative proceedings is an important part of the strategy for the preservation of minority languages. The Law on General Administrative Procedure (hereinafter: LGAP), enacted in 2016,³ contains an express provision on the use of minority languages in administrative proceedings. In the paper, the authors investigate the level of implementation of this provision by analyzing the official data on the use of minority languages and point to the most critical aspects of the existing institutional set-up for the realization of this linguistic minority right. The aim of the paper is to provide an account of the major obstacles to the efficient realization of the right and suggest possible pathways toward a more effective implementation of its legal guarantees.

In conducting the research, the authors primarily relied on the socio-legal method as a way to examine and explain the practical realities of the official use of minority languages in Serbia. For that purpose, the authors analyzed data found in the official reports and case law of the main state bodies entrusted with the task of protecting the rights of citizens, including minority rights, in dealings with the public bodies or supervising their implementation. The selected evidence was complemented by a review of relevant reports from other state bodies and international governmental organizations. The investigation is limited to the minority languages that have the status of languages in official use at the municipal and provincial level.

The paper is structured in the following way: The first section provides a brief introduction to the legal and societal context of the use of minority languages in administrative proceedings in Serbia. The central section of the paper delves into the practical challenges of conducting administrative proceedings in minority languages by pointing out the major obstacles and exploring their impact on the realization of this minority language right. Finally, in conclusion, the paper brings forward some recommendations for improving the implementation and enforcement of the existing legal guarantees.

2. The Legal and Societal Context

After the dissolution of Yugoslavia, and in particular since the democratic uprising that took place at the beginning of the century, the Serbian legal regulation of the official use of minority languages underwent substantial changes. These changes were undertaken under the direct influence of the process of stabilization and association with the European Union and were a reflection of the rapid developments in European minority rights law.⁴ The main objective was to provide

³ Law on General Administrative Procedure, *Official Gazette of RS*, 18/2016, 95/2018 Authentic interpretation, 2/2023 Decision of Constitutional Court.

⁴ On the role of minority standards in the process of stabilization and association: Vladimir Đurić, "Službena upotreba jezika nacionalnih manjina u radu organa uprave", *Strani pravni život*, Vol. 69, No. 3, 2019, pp. 49-68; Snježana Vasiljević, "The Legal Aspects of the Protection of Minorities in the Process of Stabilization and Association", *Croatian Accession to the European Union* (ed. Katarina Ott), Vol. 2, 2004, pp. 249-272; The development of European standards in the field also came about as a consequence of the developments in the

conditions for the preservation of the linguistic identity of its national minorities as well as their equality with the majority population.⁵ The basic premise was that such a goal could be achieved by enabling the official use of languages that have the greatest chance of benefiting from these legal arrangements because their speakers have a substantial share in the population at the municipal or provincial level.

The existing legal guarantees are a manifestation of the multiethnic character of the country. Serbia is home to twenty-one ethnic communities.⁶ Seventeen minority languages are spoken throughout its territory, according to the 2022 population census, which are the mother tongue of approximately 12 percent of its citizens.⁷ The Autonomous Province of Vojvodina is the most linguistically diverse area, where five minority languages have the status of a language in official use in the provincial public bodies.⁸ The linguistic map of Vojvodina is even more complex at the local self-governance level, where minority languages are in official use in 41 out of the 45 municipalities situated in the province.

Conducting public proceedings in minority languages represents an important part of the strategy for the preservation of minority languages through their official use, which translates into a pertinent minority right that has been guaranteed by the Constitution and the basic laws in the field.⁹ The Serbian legal framework establishes a firm legal obligation for public authorities to safeguard the right of members of national minorities to have proceedings conducted in their language before public bodies. LGAP expressly provides for the use of minority languages in administrative proceedings. In Article 4, which is part of the introductory section, it stipulates that the administrative proceedings shall be undertaken in the Serbian language and Cyrillic script, but also in the language and script of a national minority in official use. The provision postulates the use of minority languages in administrative proceedings to the rank of a general rule to be applied by public bodies at all levels of the country's territorial organization. More detailed rules for its application are found in the Law on the Official Use of Language and Script, which in 2010 became the central piece of legislation on the official use of minority languages.¹⁰

international sphere, such as through the qualification of some minority rights as non-derogable. For more on this: Ana Zdravković, "Pravo na život sagledano kroz prizmu apsolutnih ljudskih prava", *Pravni život*, No.12, 2019, pp. 337-355, 338; Milica V. Matijević, Ana Zdravković, "Some Reflection on the Non-Derogable Character of Freedom of Thought, Conscience and Religion and the Concept of Absolute Human Rights," *Savremeno državno-ckrveno pravo* (eds. Vladimir Đurić, Dejan Đukić), Institut za uporedno pravo, Pravoslavna Mitropolija Crnogorsko-primorska, Beograd, 2022, pp. 743-770, 751.

⁵ Art. 2, para. 2, Constitution of Republic of Serbia, *Official Gazette of RS*, 98/2006, 16/2022.

⁶ Republic Statistical Office of RS, Results of census of population, households and dwellings in 2022: On the population of RS according to ethnocultural characteristics, 2023, p. 22, <https://www.stat.gov.rs/en-us/vesti/statisticalrelease/?p=14061>, 20. 8. 2023.

⁷ *Ibidem*, 13.

⁸ Art. 24, para. 1, Statute of AP Vojvodina, *Official Gazette of APV*, 20/2014.

⁹ Constitution of Republic of Serbia, Art. 79, para. 1; Art. 11, para. 4, Law on the Protection of Rights and Freedoms of National Minorities, *Official Gazette of FRY*, No. 11/2002, 57/2002, *Official Gazette of RS*, No. 72/2009, 97/2013 Decision of Constitutional Court, 47/2018.

¹⁰ Law on Official Use of Language and Script, *Official Gazette of RS*, No. 45/91, 53/93, 67/93, 48/94, 101/2005, 30/2010, 47/2018, 48/2018 correction.

3. The Data on the Use of Minority Languages

Fully reliable data on the use of minority languages in administrative proceedings in Serbia do not exist because the public administration bodies are not obliged to collect statistics on the number of proceedings conducted in minority languages.¹¹ Some data are available for the Autonomous Province of Vojvodina. According to the last report of the Provincial Secretariat for Education, Regulations, Administration, and National Minorities – National Communities (hereinafter: Provincial Secretariat),¹² in 2022, a total of 509 administrative proceedings were carried out in minority languages in the province. The report says that all 509 proceedings were conducted in the Hungarian language and script by the public administration bodies of the two Vojvodina municipalities where members of the Hungarian minority make up a majority local community.¹³ According to the same source, the provincial bodies in the given year did not use any minority language in administrative proceedings.¹⁴ The data on the use of Hungarian presented in the sixth state report on the implementation of the Charter for Regional or Minority Languages point to an even lower number of administrative proceedings conducted in this language.¹⁵

As far as the other parts of the country are concerned, available evidence is even more scarce and indicates that administrative proceedings were conducted in minority languages in only a few municipalities. For instance, in 2021, a total of 923 administrative proceedings in the Albanian language were conducted in the municipality of Bujanovac, while in the first half of 2022, a total of 286 proceedings were recorded.¹⁶ In the same period, only two written submissions in Bulgarian were registered in the municipality of Dimitrovgrad.¹⁷ For the municipality of Bačka Palanka, it was reported that 91 requests to conduct proceedings in the Slovak language were lodged in 2019, but there are no data on the number of proceedings that were actually carried out in that language.¹⁸ Given the absence of a state-level mechanism for monitoring the official use of minority languages, the real number of proceedings conducted in minority languages might be higher. Nonetheless, the principal conclusion that can be drawn from the official reports

¹¹ See LGAP, Art. 211.

¹² The Provincial Secretariat is in charge of supervising the implementation of provisions on the official use of minority languages in AP Vojvodina.

¹³ Pokrajinski sekretarijat za obrazovanje, propise, upravu i nacionalne manjine – nacionalne zajednice, Informacija o službenoj upotrebi jezika i pisma u AP Vojvodini [Provincial Secretariat for Education, Regulations, Administration and National Minorities – National Communities, Information on the Official Use of Language and Script in AP Vojvodina], 2023, p. 14.

¹⁴ *Ibidem*.

¹⁵ Republic of Serbia, Sixth periodical report presented to the SC of the CoE in accordance with Art. 15 of the ECRML, 05.01.2023, MIN-LANG (2023) PR 1, 134, <https://rm.coe.int/serbiapr6-en/1680a9b40a>, 21. 3. 2024.

¹⁶ *Ibidem*, p. 78.

¹⁷ *Ibidem*, p. 117.

¹⁸ *Ibidem*, p. 196.

and theoretical accounts is that the overall number of administrative proceedings conducted in minority languages is low.¹⁹

4. Obstacles to the Implementation of Legal Guarantees

The insufficient use of minority languages in the work of public bodies has been constantly reported as the most problematic aspect of the realization of the linguistic rights of national minorities. While some other aspects of the official use of minority languages have improved,²⁰ the presence of these languages in administrative proceedings has not shown any notable increase in the last two decades. The changes brought by the 2016 LGAP, when the provision regulating the use of minority languages was articulated in a simpler manner and moved to the section of the general provisions, seem not to have had any impact on its application.

According to the Provincial Secretariat, the most immediate reason for the underutilization of minority languages in administrative proceedings is the low number of requests for conducting administrative proceedings in minority languages.²¹ The various factors that have led to such a situation are usually encapsulated in the observation that members of minorities in Serbia do not avail themselves of the possibility to have administrative proceedings conducted in their own language in order to avoid the longer and more complex administrative procedures and additional costs.²² A closer investigation of the reports reveals a number of different obstacles to the equal official use of minority languages. The most evident are those which point to the absence of the basic conditions for the timely and efficient conduct of administrative proceedings in minority languages. Others concern the insufficient number of civil servants who are capable of putting this right of minority communities into practice.

4.1. The Lack of Basic Requirements for the Use of Minority Languages

A closer look at the official accounts on the realization of linguistic minority rights shows that some of the basic prerequisites for the efficient conduct

¹⁹ See: Committee of Experts of the ECRML, Fifth Evaluation Report on Serbia, 17.03.2023, MIN-LANG(2023)3, 12-13. para. 78; Advisory Committee on the FCPNM, Fourth Opinion on Serbia, June 26, 2019, ACFC/OP/IV(2019)001, 26; Committee of Ministers, Recommendation CM/RecChL(2023)4 on the application of the ECRML by Serbia, October 4, 2023.

²⁰ Such as, for instance, the use of minority languages and scripts in the names of public bodies. See: Provincial Secretariat, Information on the Official Use of Language and Script in AP Vojvodina, 2020, 12, https://www.puma.vojvodina.gov.rs/etext.php?ID_mat=207, 29. 8. 2023.

²¹ Provincial Secretariat, 2023, p. 14.

²² See, for instance: Republic of Serbia, Fifth Report submitted to the Advisory Committee on the FCPNM, September 1, 2022, ACFC/SR/V(2022)003, 73, <https://rm.coe.int/5th-sr-serbia-en/1680a87637>, 2. 2. 2024; Strategy of Prevention and Protection Against Discrimination (2022 to 2030), *Official Gazette of RS*, 30/2018, 44-45. See also: Predrag Dimitrijević, Dejan Vučetić, "Ostvarivanje prava na službeni upotrebu jezika i pisma prilikom upravnog postupanja u Republici Srbiji", *Zbornik radova Pravnog fakulteta u Nišu*, Vol. 54, No. 70, 2015, pp. 229-252, 247.

of administrative proceedings in minority languages are still missing. The most apparent is the non-existence of the texts in minority languages of the basic procedural laws, including LGAP. Although the Law on the Protection of Rights and Freedoms of National Minorities, as the basic law in the field, dedicates an entire article to this subject matter, and there it establishes a clear duty of the competent ministry to secure translation of all the laws relevant for the realization of minority rights (Art. 11a),²³ so far, only the laws that lay down the minority and anti-discrimination standards have been translated into minority languages. In the Province of Vojvodina, the legal acts adopted by its main bodies are regularly translated into all five languages in official use,²⁴ yet that does not compensate for the lack of translations of the basic state level legislation. The same applies to the local level, where one often finds that only a municipal statute was translated into all languages in official use.

The problem was identified already in 2010 in a report written for the ombudsman, when it was observed that it is difficult to enforce the provisions on the use of minority languages in proceedings without translations of the major procedural laws and that the absence of such translations could lead to the use of unstandardized legal terminology.²⁵ In other words, the lack of a minority language version of LGAP could result in administrative acts with a negative effect on the legal position of the parties to proceedings and the overall level of legal certainty. Two years ago, the central authorities also acknowledged in the last report on the implementation of the Framework Convention for the Protection of National Minorities (hereinafter: FCPNM) that the lack of translations of laws governing procedures before public bodies makes it “difficult to implement such procedures by employees in the administration and judiciary.”²⁶

Another important precondition for the equal use of languages in administrative proceedings is the availability of administrative forms in minority languages. One of the official reports noted that the legal guarantees for the equal official use of languages are more effectively implemented in the municipalities in which the administrative forms were translated.²⁷ However, the data collected by the Provincial Secretariat show that in the majority of municipalities in Vojvodina, the most linguistically diverse part of the country, the administrative forms are not fully or are not at all translated into minority languages.²⁸

The lack of administrative forms in minority languages is just one aspect of the problem, another is the inaccessibility of the existing forms to members of

²³ See also, Art. 11, para. 6, Law on the Official Use of Language and Script.

²⁴ Provincial Assembly Decision on Publishing Regulations and Other Acts, *Official Gazette of APV*, 54/2014, 29/2017, 12/2018.

²⁵ Goran Bašić, Ljubica Đorđević, *Exercise of the Right to Official Use of Languages and Scripts of National Minorities in the Republic of Serbia, Protector of Citizens of the Republic of Serbia*, 2010, p. 59.

²⁶ Republic of Serbia, Fifth Report, pp. 73-74.

²⁷ Ombudsman, Special Report on the Official Use of the Hungarian Language and Script, 2018, p. 42, [https://ombudsman.rs/attachments/article/5947/Poseban%20izvestaj%20\(srpski\).pdf](https://ombudsman.rs/attachments/article/5947/Poseban%20izvestaj%20(srpski).pdf), 23.3.2024.

²⁸ Provincial Secretariat for Education, Regulations, Administration and National Minorities – National Communities, <https://www.puma.vojvodina.gov.rs/index.php?lang=7>, 03. 06. 2024.

minority communities. In the last two decades, Serbia has been working towards a comprehensive reform of its public administration, and a vital segment of that reform was an e-government program. Consequently, an important set of activities for the realization of the right to use minority languages and scripts, as laid down in the 2016 Action Plan for the Exercise of the Rights of National Minorities, was “provision of electronic information, services, and documents on the E-Government Portal in the languages of national minorities.”²⁹

However, so far these activities have only been partially completed. Administrative forms in minority languages are available to a very limited extent and only on the websites of some municipalities,³⁰ while the central, statewide e-governance web portal (E-uprava) does not provide access to administrative services in minority languages.³¹ Even though each municipality is obliged to establish and maintain an official website,³² and such website shall be in all the languages and scripts in official use,³³ the majority of municipalities in Vojvodina have monolingual websites. Those that provide access to administrative forms in minority languages often do not meet the standards in the field. Such websites are often only partially translated into minority languages³⁴ or include low-quality translations with so many terminological, syntactic, or other errors that the minority language versions are practically unusable.³⁵ The conditions are even worse at the provincial level where, according to the Provincial Secretariat, only one out of 26 public administration bodies has the website fully translated into all five languages in official use in the province, while the other three have their websites partially translated or translated into only one of these languages.³⁶

The situation with the notice boards at the premises of public bodies does not differ much from the one found in the virtual environment. While there is a notable improvement when it comes to the names of public bodies, the information that administrative proceedings can be conducted in minority languages is rarely displayed in offices.³⁷ To what extent public servants in charge of conducting

²⁹ Government of RS, Action Plan for the Exercise of the Rights of National Minorities, March 3, 2016, Activity No. 5.10.

³⁰ See for instance, the official web pages of the city of Novi Sad, Vrbas and Srbobran.

³¹ In the course of the research, the authors contacted the administrators of this web portal and asked whether access to public administration services is provided in two minority languages (Hungarian and Slovak). The answer was negative (on file with the authors).

³² Art. 28, para. 1, Law on E-Government, *Official Gazette of RS*, 27/2018.

³³ Art. 6, Regulation on the Conditions for the Establishment and Maintenance of a Website of Public Administration Bodies, *Official Gazette of RS*, 104/2018.

³⁴ See, for instance, the official website of the Municipality of Pančevo.

³⁵ Provincial Ombudsman, Representation of Languages of National Minorities in Official Use in the Official Web Presentations of Provincial Bodies and Local Self-Government Units, 2018, 42, <https://www.ombudsmanapv.org/ombapv/sr/istrazivanje.php?id=Istra-ivanje-2018-Zastupljenost-jezika-nacionalnih-manjina-na-internet-prezentacijama>, 3. 2. 2024.

³⁶ Provincial Secretariat, 2023, pp. 22-23.

³⁷ See, for instance, Ombudsman, Special Report on the Official Use of the Bulgarian Language and Script, 2021, 29, <https://www.ombudsman.rs/attachments/article/7286/Посебан%20извештај%20о%20службеној%20употреби%20бугарског%20језика%20%20и%20н%20исма.pdf>, 22. 3 2024.

administrative procedures fulfill their statutory duty to determine the language of the procedure by asking the party to opt for one of the languages in official use is another question,³⁸ which gets even more complex when we look at the statistics on the number of civil servants with adequate command of minority languages.

4.2. The Lack of Personnel with Adequate Knowledge of Minority Languages

Much has been written so far about the inadequate representation of members of minority communities in public sector bodies in Serbia. For many years, this shortcoming has been placed high up on the list of obstacles to the realization of minority rights in the country-specific opinions of the Advisory Committee on the FCPNM and, consequently, it has had a prominent place in our country's efforts to earn positive progress reports from the European Commission.³⁹ Since 2018, a number of laws regulating employment in public bodies have been amended or new laws adopted in an attempt to increase the representation of minority communities through the use of affirmative action measures, primarily in the process of recruitment. This has also been followed by different policy level interventions.⁴⁰

Yet, the public sector bodies in the Republic of Serbia are still not representative enough of the ethnic composition of its population, and this has a bearing on their capacity to apply administrative procedures in minority languages.⁴¹ As said, through the numerous legislative interventions, the rules governing the employment and status of civil servants in public bodies were amended or new laws adopted. For instance, the Law on Civil Servants in Art. 9, para. 3 establishes the duty of the central level bodies to conduct recruitment by paying due attention to whether the ethnic composition of their employees reflects, to the greatest extent possible, the ethnic composition of the population. The same provision is found in Art. 19, para. 3, of the equivalent provincial level law.⁴² These provisions

³⁸ Law on the Official Use of Language and Script, Art. 13, para. 1, For an example of a breach of this duty in practice, see: Commissioner for the Protection of Equality, Opinion No. 07-00-298/2019-02, November 29, 2019.

³⁹ More on the standard of adequate representation in the opinions of the Advisory Committee in: Milica V. Matijević, "Towards a Better Understanding of the Standard of Adequate Representation of Persons Belonging to National Minorities in the Public Sector", *Strani pravni život*, Vol. 63, No. 4, 2019, pp. 19-39; Milica V. Matijević, "Adequate Representation of Persons Belonging to National Minorities in the Public Sector: The Nature, Content and Scope of Obligations in the Comments of the Advisory Committee for the Framework Convention", *Strani pravni život*, Vol. 64, No. 4, 2020, pp. 55-68.

⁴⁰ See: Action Plan for the Exercise of the Rights of National Minorities, 2016, Chapter VIII.

⁴¹ See: Commissioner for the Protection of Equality, Regular Annual Report for 2023, 2024, 173; Ministry of Human and Minority Rights and Social Dialogue of RS, Report on a Visit to the National Councils of National Minorities in Their Seats, 2021, 15. <https://minljmpdd.gov.rs/wp-content/uploads/2024/04/Izvestaj-o-posedi-NSNM-u-njihovim-seditima-2021.god-.pdf>, 14. 3. 2024; Resolution CM/ResCMN(2021)11, 2021, 3; European Commission, Serbia 2023 Progress Report, November 8, 2023, SWD(2023) 695 final, 50. Compare with: Coordination Body for the Implementation of the Action Plan for Ch. 23, Report on the Implementation of the Revised Action Plan of Ch. 23, III quarter 2023.

⁴² Law on Employees in Autonomous Provinces and Local Self-Government Units, *Official Gazette of RS*, 21/2016, 113/2017, 95/2018, 114/2021, 92/2023, 113/2017, 95/2018, 86/2019, 157/2020, 123/2021.

are further elaborated in bylaws, which set rules for determining whether the ethnic composition of a workforce reflects the ethnic composition of the population and lay down other rules governing the application of the affirmative action measures.⁴³

There are a number of factors that cast doubt on the ability of these affirmative action measures to bring about the achievement of the aim for which they were introduced. Apart from being too complex and requiring the collection of sensitive personal data, their main deficiency is that they place primary importance on the ethnic affiliation of a candidate for recruitment. Knowledge of minority languages would be a better criterion than the formal declaration of minority identity. Such a criterion could serve both as a proxy for minority identity and a reliable tool for ensuring that the greater representation of minority communities actually leads to the greater use of minority languages in administrative proceedings.⁴⁴ K. Beretka follows the same line of reasoning when she notes that “belonging to a national minority and speaking the language of a national minority are two different categories” and that a better solution would be to recruit civil servants who speak minority languages, notwithstanding their ethnicity.⁴⁵

Knowledge of minority languages can also be set as a requirement for filling certain positions in provincial and municipal bodies, as stipulated in bylaws,⁴⁶ yet the available data show that this possibility is rarely used.⁴⁷ In effect, it is reported that knowledge of minority languages and knowledge of foreign ones are often set as alternative employment requirements.⁴⁸ Another aspect equally important for our considerations, is the question of whether an employee’s command of a minority language enables him or her to conduct administrative procedures in that language. In its recent report, the Provincial Secretariat notes that the courses on administrative law terminology are currently not available either within the higher education programs in minority languages or through the programs for professional development of civil servants.⁴⁹ This further explains why there is an insufficient number of civil servants with the ability to handle administrative proceedings in minority languages and the current status of these languages in the work of public bodies.

⁴³ Regulation on Conducting an Internal and Public Competition for Filling Job Positions in Autonomous Provinces and Local Self-Government Units (Official Gazette of RS, 107/2023), Art. 11. For a more detailed analysis see: Milica V. Matijević, “Affirmativne mere za zapošljavanje pripadnika nacionalnih manjina u državnoj upravi Republike Srbije – osvrt na postojeća rešenja”, *Pravni život*, Vol. 3, No. 11, 2019, pp. 589-605.

⁴⁴ See, M. V. Matijević, 2019, p. 14.

⁴⁵ Katinka Beretka, “Language Rights and Multilingualism in Vojvodina”, *International Journal on Minority and Group Rights*, Vol. 23, No. 4, 2016, pp. 505-529, 519.

⁴⁶ Art. 18, para. 2, Provincial Assembly Decision on Provincial Administration, *Official Gazette of APV*, 37/2014, 54/2014, 37/2016, 29/2017, 24/2019, 66/2020, 38/2021.

⁴⁷ See the website of the Provincial Secretariat.

⁴⁸ Provincial Ombudsman, Knowledge of the Languages and Scripts of National Minorities in Official Use in Provincial Administration Bodies - Survey, 2015, p. 18, https://www.ombudsmanapv.org/riv/attachments/article/1589/Istrazivanje_sluz_upotreba_jezika_2015.pdf 4. 4. 2024.

⁴⁹ Provincial Secretariat, 2023, p. 23.

5. Conclusion

The legal framework for the use of minority languages in administrative proceedings, created in the last twenty years, provides firm legal foundations for the long-term realization of this right. Yet, the overall number of administrative proceedings conducted in minority languages has remained low, which indicates that the existing legal guarantees need to be complemented with the requisite institutional and policy measures.

The paper singled out and analyzed the most apparent obstacles to the effective implementation of this minority right that were identified by the state bodies. The analysis shows that the basic requirements have not yet been met for the effective and timely conduct of administrative proceedings in minority languages. Minority language versions of the major procedural laws, including LGAP, do not exist. The administrative forms have mostly not been translated into minority languages, and the newly introduced virtual tools for the provision of administrative services are not available in these languages. The insufficient number of civil servants with the ability to handle administrative proceedings in minority languages is another important impediment to the realization of the existing legal guarantees. The investigation indicates that the amendments to the relevant laws, which were undertaken with the aim of increasing the level of representation of minority communities in public administration, do not seem to provide an adequate response to all the aspects of the problem at hand.

Given that the paper analyzed only the most evident obstacles to the effective implementation of the use of minority languages in administrative proceedings and that their list might be longer, as well as the mutually reinforcing character of these obstacles, there is no doubt that better results in the field could be achieved only through a more systemic approach to the official use of minority languages. This would, first and foremost, require an evaluation of what has been achieved so far and what measures need to be undertaken in order to enable the members of minority communities to realize and the state bodies to effectively implement this minority right. Such evaluation could be part of the broader process of drafting the new action plan for the protection of minority rights.⁵⁰

The ongoing public administration reform could be an important avenue for providing the conditions for efficient and timely handling of administrative proceedings in minority languages. The transformation of the Serbian public administration “from an administrative authority into a public service” has led to the simplification of administrative procedures and the creation of an administrative environment that could ensure a more efficient realization of both public and private interests.⁵¹ Accordingly, one of the basic features of the reformed ad-

⁵⁰ The previous Action Plan was created as a medium-term strategic document with no explicit time limits *vis-à-vis* its duration, yet most of the activities envisioned by it were to be implemented until the end of 2018.

⁵¹ Predrag Dimitrijević, “Towards a New General Administrative Procedure Act in the Republic of Serbia,” *Facta Universitatis*, Vol. 8, No. 1, 2010, pp. 33-42.

ministrative law is that the scope of application of LGAP has been significantly broadened to enable greater uniformity of services provided by public bodies and their harmonization across the country.⁵² This, in itself, could improve conditions for the use of minority languages in administrative proceedings.

The digitalization of public services is another, for the present discussion, even more important aspect of public administration reform. The introduction of the “one-stop shop” approach to the delivery of administrative services,⁵³ the use of IT systems and registries in processing administrative matters, the expansion of digital public services available through the state e-governance portal, the virtual administrative forms, the use of AI tools, and other innovations brought to the administrative law by the recent technological development, could be exploited to remove many of the obstacles to the equal use of minority languages in administrative proceedings analyzed in the paper. At some point, further technological breakthroughs in the provision of administrative services could also assist state bodies in overcoming the limitations ensuing from an insufficient number of public servants with adequate knowledge of administrative law terminology in minority languages.

To conclude, the identified challenges require a more systematic and integrated approach to the implementation and monitoring of the existing legal framework for the official use of minority languages. This would require a periodic and comprehensive evaluation of the current state of affairs in the field. The ongoing public administration reform and the rapid digitalization of administrative services could become a fast track for providing many of the missing requirements for the equal use of minority languages in administrative proceedings.

List of References

- Advisory Committee on the FCPNM, Fourth Opinion on Serbia, June 26, 2019, ACFC/OP/IV(2019)001, 26.
- Bašić, G., Đorđević, Lj., *Exercise of the Right to Official Use of Languages and Scripts of National Minorities in the Republic of Serbia*, Protector of Citizens of the Republic of Serbia, 2010.
- Committee of Experts of the ECRML, Fifth Evaluation Report on Serbia, 17.03.2023, MIN-LANG(2023)3.
- Committee of Ministers, Recommendation CM/RecChL(2023)4 on the application of the ECRML by Serbia, October 4, 2023.
- Commissioner for the Protection of Equality, Opinion No. 07-00-298/2019-02, November 29, 2019.
- Constitution of Republic of Serbia, Official Gazette of RS, 98/2006, 16/2022).

⁵² Zoran Tomić, Dobrosav Milovanović, Vuk Cucić, *Praktikum za primenu Zakona o opštem upravnom postupku*, Ministarstvo državne uprave i lokalne samouprave, Beograd, 2017, p. 25.

⁵³ See LGAP, Art. 42.

- Dimitrijević, P., "Towards a New General Administrative Procedure Act in the Republic of Serbia", *Facta Universitatis*, Vol. 8, No. 1, 2010, pp. 33-42.
- Dimitrijević, P., Vučetić, D., "Ostvarivanje prava na službenu upotrebu jezika i pisma prilikom upravnog postupanja u Republici Srbiji", *Zbornik radova Pravnog fakulteta u Nišu*, Vol. 54, No. 70, 2015, pp. 229-252.
- Đurić, V., "Službena upotreba jezika nacionalnih manjina u radu organa uprave", *Strani pravni život*, Vol. 69, No. 3, 2019, pp. 49-68, <https://doi.org/10.5937/spz63-23516>
- European Commission, Serbia 2023 Progress Report, November 8, 2023, SWD(2023) 695 final.
- Government of Republic of Serbia, Action Plan for the Exercise of the Rights of National Minorities, March 3, 2016, Activity No. 5.10.
- Beretka, K., "Language Rights and Multilingualism in Vojvodina", *International Journal on Minority and Group Rights*, Vol. 23, No. 4, 2016, pp. 505-529, <http://doi.org/10.1163/15718115-02304007>
- Law on E-Government, *Official Gazette of RS*, 27/2018.
- Law on Employees in Autonomous Provinces and Local Self-Government Units, *Official Gazette of RS*, 21/2016, 113/2017, 95/2018, 114/2021, 92/2023, 113/2017, 95/2018, 86/2019, 157/2020, 123/2021.
- Law on General Administrative Procedure, *Official Gazette of RS*, 18/2016, 95/2018 Authentic interpretation), 2/2023 Decision of Constitutional Court.
- Law on Official Use of Language and Script, *Official Gazette of RS*, No. 45/91, 53/93, 67/93, 48/94, 101/2005, 30/2010, 47/2018, 48/2018 correction.
- Law on the Protection of Rights and Freedoms of National Minorities, *Official Gazette of FRY*, No. 11/2002, 57/2002, *Official Gazette of RS*, No. 72/2009, 97/2013 Decision of Constitutional Court, 47/2018.
- Matijević, M. V., "Afirmativne mere za zapošljavanje pripadnika nacionalnih manjina u državnoj upravi Republike Srbije – osvrt na postojeća rešenja", *Pravni život*, Vol. 3, No. 11, 2019, pp. 589-605.
- Matijević, M. V., Zdravković, A., "Some Reflection on the Non-Derogable Character of Freedom of Thought, Conscience and Religion and the Concept of Absolute Human Rights", *Savremeno državno-crkveno pravo* (eds. Vladimir Đurić, Dejan Đukić), Institut za uporedno pravo: Pravoslavna Mitropolija Crnogorsko-primorska, Beograd, 2022, pp. 743-770.
- Matijević, M. V., "Towards a Better Understanding of the Standard of Adequate Representation of Persons Belonging to National Minorities in Public Sector", *Strani pravni život*, No. 63, Vol. 4, 2019, pp. 19-39, <https://doi.org/10.5937/spz63-24844>.
- Matijević, M. V., "Adequate Representation of Persons Belonging to National Minorities in Public Sector: The Nature, Content and Scope of Obligations in

- the Comments of the Advisory Committee for the Framework Convention”, *Strani pravni život*, Vol. 64, No. 4, 2020, pp. 55-68, <https://doi.org/10.5937/spz64-29799>.
- Ministry of Human and Minority Rights and Social Dialogue of RS, Report on a Visit to the National Councils of National Minorities in Their Seats, 2021, <https://minljmpdd.gov.rs/wp-content/uploads/2024/04/Izvestaj-o-poseti-NSNM-u-njihovim-seditima-2021.god-.pdf>, 14. 3. 2024.
- Ombudsman, Special Report on the Official Use of the Bulgarian Language and Script, 2021, <https://www.ombudsman.rs/attachments/article/7286/Посебан%20извештај%20о%20службеној%20употреби%20бугарског%20језика%20%20у%20писма.pdf>, 22. 3. 2024.
- Ombudsman, Special Report on the Official Use of the Hungarian Language and Script, 2018, [https://ombudsman.rs/attachments/article/5947/Poseban%20izvestaj%20\(srpski\).pdf](https://ombudsman.rs/attachments/article/5947/Poseban%20izvestaj%20(srpski).pdf), 23. 3. 2024.
- Provincial Assembly Decision on Publishing Regulations and Other Acts, *Official Gazette of APV*, 54/2014, 29/2017, 12/2018.
- Provincial Assembly Decision on Provincial Administration, *Official Gazette of APV*, 37/2014, 54/2014, 37/2016, 29/2017, 24/2019, 66/2020, 38/2021.
- Provincial Ombudsman, Knowledge of the Languages and Scripts of National Minorities in Official Use in Provincial Administration Bodies - Survey, 2015, https://www.ombudsmanapv.org/riv/attachments/article/1589/Istrazivanje_sluz_upotreba_jezika_2015.pdf, 4. 4. 2024.
- Provincial Ombudsman, Representation of Languages of National Minorities in Official Use in the Official Web Presentations of Provincial Bodies and Local Self-Government Units, 2018, <https://www.ombudsmanapv.org/ombapv/sr/istrazivanja.php?id=Istra--ivanje-2018-Zastupljenost-jezika-nationalnih-manjina-na-internet-prezentacijama>, 3. 2. 2024.
- Provincial Secretariat, Information on the Official Use of Language and Script in AP Vojvodina, 2020, 12, https://www.puma.vojvodina.gov.rs/etext.php?ID_mat=207, 29. 8. 2023.
- Provincial Secretariat for Education, Regulations, Administration and National Minorities – National Communities, <https://www.puma.vojvodina.gov.rs/index.php?lang=7>, 3. 6. 2024.
- Regulation on the Conditions for the Establishment and Maintenance of a Website of Public Administration Bodies, *Official Gazette of RS*, 104/2018.
- Republic of Serbia, Fifth Report submitted to the Advisory Committee on the FCPNM, September 1, 2022, ACFC/SR/V(2022)003, <https://rm.coe.int/5th-sr-serbia-en/1680a87637>, 2. 2. 2024.
- Republic of Serbia, Sixth periodical report presented to the SC of the CoE in accordance with Art. 15 of the ECRML, 05.01.2023, MIN-LANG (2023) PR 1, <https://rm.coe.int/serbiapr6-en/1680a9b40a>, 21. 3. 2024.

- Republic Statistical Office of RS, Results of census of population, households and dwellings in 2022: On the population of RS according to ethnocultural characteristics, 2023, <https://www.stat.gov.rs/en-us/vesti/statistical-release/?p=14061>, 20. 8. 2023.
- Resolution CM/ResCMN(2021)11, 2021.
- Statute of AP Vojvodina, *Official Gazette of APV*, 20/2014.
- Tomić, Z., Milovanović, D., Cucić, V., *Praktikum za primenu Zakona o opštem upravnom postupku*, Ministarstvo državne uprave i lokalne samouprave, Beograd, 2017.
- Vasiljević, S., “The Legal Aspects of the Protection of Minorities in the Process of Stabilization and Association”, *Croatian Accession to the European Union* (ed. Katarina Ott), Vol. 2, 2004, pp. 249-272.
- Zdravković, A., „Pravo na život sagledano kroz prizmu apsolutnih ljudskih prava”, *Pravni život*, No. 12, 2019, pp. 337-355.

CIP - Каталогизација у публикацији
Народна библиотека Србије, Београд

340.134:35.077.3(497.11)(082)

LAW on general administrative procedure : contemporary tendencies and challenges : thematic collection / [edited by Srećko Devjak, Predrag Dimitrijević]. - Belgrade : Eurosfera & Partners : The Institute of Comparative Law ; Ljubljana : MLC Faculty of Management and Law, 2024 (Belgrade : Eurosfera & Partners). - 369 str. : graf. prikazi, tabele ; 24 cm

"The regional conference, on the topic 'Analysis of the Law on general administrative procedure in the service of the economy and citizens,' organized by the consulting firm 'Eurosfera,' which was held with the support of the National assembly of the Republic of Serbia, enabled a professional, collegial, and well-argued discussion of all current aspects of the Law on general administrative procedure, particularly on the effects of its implementation. The conference also served as an immediate inspiration for the creation of this collection of papers on this ever-relevant topic." --> Administrative legislation under the microscope. - Na spor. nasl. str.: Закон о општем управном поступку: савремене тенденције и изазови: тематски зборник. - Tiraž 100. - Napomene i bibliografske reference uz tekst. - Bibliografija uz svaki rad.

ISBN 978-86-82582-23-6 (ICL)

а) Управно право -- Зборници б) Управни поступак -- Законодавство -- Србија -- Зборници

COBISS.SR-ID 158363657