

Petition Directed to the Petitions Committee of the European Parliament to Safeguard Minority Rights in Austria and Uphold the Rule of Law

submitted by: Gabriel Hribar (Enotna Lista), Valentin Inzko (Narodni Svet koroških Slovencev), Bernard Sadovnik (Skupnost koroških Slovencev in Slovenk), Manuel Jug (Zveza slovenskih organizacij)

Introduction:

We, the undersigned representatives of the Slovene Minority in Carinthia/Kärnten/Koroška, are vehemently committed to the protection of minority rights in Austria. While recognising the positive measures recently taken, such as the increase in funding for the minority, media funding, the Article 15a, Austrian Federal Constitutional Law Agreement on Elementary Education and, in particular, the positive further development in the federal state of Carinthia, we direct our concerned attention to the inadequate implementation of minority rights in Austria, in particular with regard to the Slovene minority in Carinthia.

Although the Slovene minority in Carinthia enjoys comprehensive minority rights according to the Austrian Federal Constitution and international agreements under international law, these are not sufficiently implemented within the meaning of the State Treaty of Vienna. This leads, inter alia, to an erosion of language and culture, violation of the principles of the rule of law and considerable deficiencies in the equal protection of the minority language in the areas of education, jurisdiction and administration.

In the education system, deficits in the implementation of the State Treaty of Vienna can be noted, in particular in unregulated areas such as elementary education, leisure education and vocational schools. Furthermore, use of the Slovene language in administration and jurisdiction is subject to unacceptable restrictions, which urgently require clear legal regulations to ensure use of the language in the entire settlement area. Furthermore, to date the Republic of Austria has not honoured its obligation to implement the memorandum agreed with the minority in 2011 in respect of the speedy amendment of the outdated Ethnic Groups Act. In addition, this was stated in the current government programme of the federal government, but has not been implemented to date.

We, therefore, appeal to the European Parliament to review the matter as part of fundamental European values and the rule of law, and contact the Republic of Austria. Austria must honour its obligations under the State Treaty of Vienna and the international agreements on the protection of minorities (FCNM and ECMRL), and consistently implement the provisions in the implementing legislation as well as realise the objectives of the European Education Area to guarantee the continued existence of the minority, its culture and language.

Legal framework

The underlying legal conditions for the protection of minorities in Austria is provided for at various levels, by way of several national laws and international agreements. This legal basis ensures that the rights and cultural identity and language of the Slovene minority in Carinthia are protected.

Austria has ratified both the **Framework Convention for the Protection of National Minorities (FCNM)** and the **European Charter for Regional or Minority Languages (ECRML)**. It is important to emphasise that all the problem areas raised in this petition have also been identified and criticised by the Council of Europe in its recommendations and reports on both conventions irrespective of a positive assessment of some adopted measures.

Article 8, sub-section 2, of the Austrian Federal Constitutional Law (B-VG) emphasises that Austria values and protects its evolved linguistic and cultural diversity, in particular among the autochthonous minorities. This includes respecting, safeguarding and promoting the language, culture as well as the continued existence of these ethnic groups.

Article 19, Basic State Law: This provision emphasises the equal rights of the “Customary languages of the country” and lays the foundation for the protection of the Slovene language. However, implementation of this article is deficient, in particular with regard to the establishment of the Slovene language as the second national language in Carinthia.

In accordance with Article 66 to 68 State Treaty of St. Germain, Austrian nationals belonging to minorities by race, religion or language should enjoy the same rights and guarantees as other nationals. This includes the right to schools in their mother tongue, facilitation of public education and adequate financial support for education and cultural institutions. Regrettably, these protections are not sufficiently implemented, in particular in the educational field.

Similarly, the Minorities School Act for Carinthia and the Ethnic Groups Act contain provisions under constitutional law as well as the Carinthian State Constitution in Articles 5 and 69a.

Article 7 of the State Treaty of Vienna: Particular importance is to be attached to Article 7 of the State Treaty of Vienna. This article grants the Slovene minority comprehensive rights, including elementary education and a proportionate number of secondary schools, use of the Slovene language in administrative and judicial districts of Carinthia with Slovene or mixed populations, and designations and inscriptions of a topographical nature in Slovene. Irrespective of this legal basis, Article 7 is insufficiently implemented and interpreted with restrictions in many areas.

1. Education:

Although the Austrian State Treaty of 1955 guarantees elementary education in the Slovene language in Article 7, there are still no implementation regulations at federal level for bilingual day-care centres and kindergartens, no regulations for the training and recognition of the qualifications of bilingual elementary teachers, and no regulations for bilingual after-school care centres or bilingual leisure education in general. In addition, there is still no bilingual education in the area of secondary schools within the scope of the Minorities School Act for Carinthia. The fact that Slovene is not offered or not prescribed in many types of schools, such as vocational schools, and is prevented by an excessively high prescribed minimum number of enrolments, leads to use of this language being lost.

In addition, due to the migration of members of the ethnic groups to larger urban centres, the acquisition of the languages of the ethnic groups must also be ensured outside the traditional settlement areas, as required by the Council of Europe in conjunction with the *Framework Convention for the Protection of National Minorities* and the *European Charter for Regional or Minority Languages*.

A new ordinance on curricula for primary schools specifies, inter alia, that for pupils registered for bilingual education in Carinthia, the subject lessons in German should be 4-6 hours, and the subject lessons in Slovene 3-4 hours per week. Although the Minorities School Act for Carinthia specifies that instruction in both languages must be given approximately to the same extent, distribution of language instruction was unequal here and 2 Slovenian lessons were deleted. The fact that in primary schools the potential extent of remedial teaching in Slovene is increased by 4 hours and the Slovene language is also used in the competence areas is of particular importance in implementing the ordinance.

2. Use of the Slovene language in the judiciary:

The question of bilingual jurisdiction in Carinthia is crucially important in respect of implementing minority rights. At present, Slovene is only permitted as a court language in three district courts, which covers only one third of the bilingual area. By contrast, the regional court of Klagenfurt/Celovec, allows all EU citizens to use the Slovene language in court (ECJ decision Bikel and Franz), but this remains denied to Carinthian Slovenes who do not come from the bilingual districts – i.e. the majority – as discrimination against nationals is allowed in this context.

It is important to emphasise that the extension of the admission of Slovene as a court language to the entire bilingual area has been demanded by representatives of the ethnic groups and experts for years. There is an urgent need for action because full implementation of the State Treaty of Vienna has not been guaranteed since it was signed.

At the district courts currently in place, there are no regulated criteria for mastering the Slovene language when hiring staff. The consequence of this situation is that only one of the judges at the three bilingual courts is actually bilingual, which could lead to bilingual jurisdiction only existing on paper in the near future, including for the currently regulated part.

All this contradicts Article 7(3) of the State Treaty of Vienna, which guarantees full extension of bilingual jurisdiction to the bilingual settlement area.

3. Use of the Slovene language in administration:

Competent bilingual staff are lacking in public administration and the judiciary. In tenders for positions in the bilingual field, knowledge of the Slovene language is often not taken into account as a criterion, although lively use of the language in public life is of immense importance to preserve the minority language. Therefore, there is a need for a federal legal regulation that specifies the knowledge of the Slovene language to an appropriate extent for employees in public administration and the judiciary. At present, Slovene can only be used as an official language upon explicit application, and is usually associated with considerable delays. As a result, this possibility is hardly used. In practice, Slovenian is rarely used by the authorities on their own initiative other than by a few authorities and municipalities. This is in contrast to examples of good practice in many European countries.

In official announcements it is noticeable that the central legal source for the admission of Slovene as an official language, namely Article 7, number 3, of the State Treaty of Vienna, has not been implemented. In this respect, the Ethnic Groups Act must also be amended. Therefore, we reiterate the demand that implementing provisions for Article 7, of the State Treaty of Vienna, be enacted without delay.

4. Amending the Ethnic Groups Act:

During the course of the place-name sign negotiations in 2011, the memorandum concerning “Bilingual, topographical signs, the official language as well as measures for the cooperation with the Slovene-speaking ethnic group” specified the speedy adoption of a “New ethnic group law.” Page 12, inter alia, of the coalition programme of the current federal government from 2020 provides for a “New codification of the constitutional provision on ethnic groups” including a commitment to minority education, minority languages and topography.”

To date, neither a corresponding draft has been presented nor have discussions been held with the representatives of the ethnic groups in this respect.

Violation of the rule of law

Irrespective of the comprehensive national provisions for the protection of minorities and obligations under international law, the rights of national minorities are not adequately taken into account in Austria, in particular in the implementing legislation. This inadequate consideration poses a serious challenge and runs contrary to the principles of the rule of law. This requires urgent action to ensure that these rights are fully respected and protected, and to safeguard the principles of the rule of law.

Due to the place-name sign compromise of 2011, the official language and topography regulation was adopted with constitutional rank with the consent of the representatives of the ethnic groups at the time. There is a need for further regulation and improvement here within the meaning of Article 7, of

the State Treaty of Vienna, with regard to the official language, in particular in the case of the official language regulation for the municipalities of Eberndorf/Dobrla vas, as well as St. Kanzian/Škocjan, the official language before all self-governing bodies in the non-territorial self-governing area and with regard to bilingual jurisdiction.

The regulation and introduction of a right of action (legal remedies) for the representative organisations of the Slovene minority is to be implemented to ensure the enforcement of minority rights. This would put a stop to the legal restrictions and comply with the aforementioned international agreements on the protection of minorities and the basic principles of a democratic constitutional state.

In addition, it is worthy of note that in various proceedings representatives of the Slovene minority have already repeatedly invoked the provisions of the European conventions for the protection of minorities, both the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages. There is a need to raise awareness of the fact that these are valid and binding laws for the Republic of Austria. Violations of these European Conventions have been committed in various areas, with regard to education, the official language and bilingual jurisdiction. However, members of the Slovene minority have limited options at their disposal to counter these violations due to the lack of individual rights and collective legal standing.

In this context, the Council of Europe calls for a comprehensive modernisation process of the ethnic group law in its recommendations (Fourth State Report on the FCNM). This is aimed at ensuring that the Framework Convention for the Protection of National Minorities is consistently applied to all persons who belong to national minorities. This is to be done on the basis of an individual rights approach and, where appropriate, on an article-by-article basis. Attention also focuses on ensuring effective access to remedies to address the poor implementation of minority rights, including language rights. This is aimed at systematically ensuring full and effective equality before the law for all minority members. It is important to emphasise here that Austria has entered into the aforementioned conventions subject to ratification, and that they are, therefore, addressed to the legislator. The Conventions are then only directly applicable to minority members with the corresponding implementing legislation.

Background and European law situation

The foundation of the European Union is based on fundamental values, which include the protection of minority rights and a guarantee of the rule of law. In accordance with Article 2, of the Treaty on European Union (TEU), these values not only serve as the basis for membership in the EU, they provide the foundation for all the Union's activities and decisions. As part of this, the EU aims to uphold fundamental rights and freedoms, including respect for and promotion of cultural and linguistic diversity. These principles are not only an obligation of the member states, they go the heart of European integration. Article 3, TEU, states further that the Union shall respect its rich cultural and linguistic diversity and ensure that Europe's cultural heritage is safeguarded and developed. This diversity is, therefore, an intrinsic part of the European identity.

The Treaty of Lisbon marked a significant step with regard to minority rights in the European Union. For the first time in the history of European integration, the term “Minorities” was included in EU primary law and the “Rights of persons belonging to minorities” were included among the EU’s fundamental values. The Charter of Fundamental Rights also became legally binding, including its anti-discrimination provision in Article 21. This provision lists the grounds on which discrimination is prohibited and explicitly refers to discrimination based on “Belonging to a national minority.”

The *Council Recommendation on High-Quality Early Childhood Education and Care Systems* underlines the significance of children’s participation in early childhood education and care to develop their language competences. For children from minority communities, this can be done in both the language of instruction and the first language of the minority community because this contributes to social cohesion and integration in various ways.

In its *Communication on Completing the European Area of Education by 2025*, the European Commission strongly encouraged Member States to implement the concept of “Language awareness” in accordance with the *Council Recommendation for a Comprehensive Approach to Language Teaching and Learning*. This approach underscores the targeted promotion of languages used at home, regional or minority languages and other languages of instruction in bilingual and multicultural regions. There is a particular focus on early language support and the establishment of bilingual kindergartens and primary schools, in particular in multilingual states and border regions.

This underlines the importance the EU attaches to promoting linguistic diversity and education. In view of the present situation in Austria and minority rights, the EU institutions should seek dialogue with the Austrian government to ensure that the rights of the Slovene minority are implemented in the field of education.

All the stated principles of European law underline the importance of protecting and promoting minority rights, including respect for and preservation of cultural and linguistic diversity. In this context, it is essential that Austria honours its obligations and adequately respects and implements the rights of the Slovene minority.

(EU documents: Council Recommendation on High-Quality Early Childhood Education and Care Systems, 2019; Council Recommendation on a comprehensive approach to the teaching and learning of languages, 2019)

Demands:

In light of these legal and moral obligations, we ask the European Parliament to demand the following measures from the Republic of Austria:

- **Education in general:** The Republic of Austria is called upon to create the legal framework to ensure the learning and teaching of the languages of the ethnic groups in all areas of school education from day care centres to university, including technical and vocational schools, including beyond the autochthonous settlement area for all six recognised ethnic groups.
- **Minority School Act for Carinthia:** The demand entails initiating a process for an overdue reform of the Minority School Act for Carinthia, including elementary education, leisure education and implementation of bilingualism at secondary level as well as technical and vocational schools.
- **Curriculum and school reforms:** The Republic of Austria should ensure that in primary schools the potential extent of remedial teaching in the Slovene language is increased by 4 hours and, in particular, that Section 16, of the Minorities School Act, is not violated. Furthermore, efforts are to be made to ensure that the Slovene language is also used with regard to competence and that future reforms in the school system are designed with the involvement of the organisations of the minority groups and professional associations.
- **Use of the Slovene language in the judiciary:** The Republic of Austria is requested to extend access to bilingual jurisdiction for the Slovene minority to the entire bilingual area, including the Regional Court of Klagenfurt, as well as establish competence centres for the smooth bilingual operation of the courts in which the Slovene language is used.
- **Language skills in the judiciary and administration:** We demand that knowledge of the Slovene language for employees in the jurisdiction and in the administration in bilingual matters be provided for by federal law and that the language acquisition of the employees be promoted by way of appropriate training.
- **Amending the Ethnic Groups Act:** The Republic of Austria is called upon to subject the Ethnic Groups Act to a comprehensive amendment involving all recognised ethnic groups in Austria, as specified in the government programme 2020-2024.

Appeal to the European Parliament:

We direct our urgent appeal to the European Parliament to support our efforts to safeguard minority rights in Austria and our concerns within the framework of fundamental European values and the rule of law. Guaranteeing minority rights is extraordinarily important for social cohesion, cultural diversity and peace in Europe.

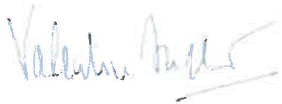
By way of our concern, we call on the Republic of Austria to honour its national and international obligations by way of the measures listed above with regard to minority protection. Unfortunately, the recommendations of the Council of Europe have, to date, only been implemented in part, and not sufficiently taken into account by the Republic of Austria. This is also attributable to the fact that

there are no effective sanction mechanisms in place in the Framework Conventions for the Protection of National Minorities (FCNM) and the European Charter for Regional or Minority Languages (ECRML) to ensure compliance with these binding provisions under international law. Therefore, it is a matter of urgency that the European Union pays attention to the guarantee of minority rights in the member states, in particular that it draws the attention of the Republic of Austria to the lacking implementation of these obligations and adopts measures to ensure that the rights of the Slovene minority and other autochthonous minorities in Austria are respected and protected. This is aimed at preserving our common cultural heritage, linguistic diversity and fundamental values.

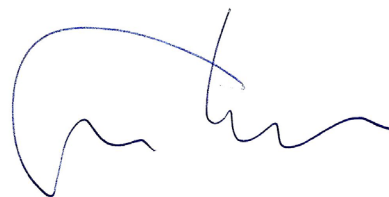
We call on the European Parliament to forward the concerns set out in this petition to the Republic of Austria, insist on them and demand their implementation by way of incorporating all representatives of the minorities.

In view of the facts presented and the urgency of the matter, we request that our petition be included on the agenda of the Committee on Petitions. We are convinced that a detailed discussion of our concerns within the framework of the Petitions Committee can contribute significantly to ensuring that Austria implements minority rights.

Klagenfurt/Celovec, 30 October 2023



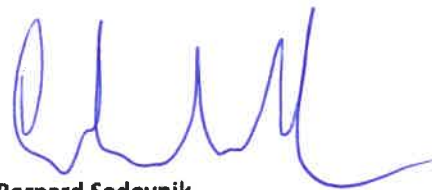
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