

# Linguistic Rights - Law of Coexisting Languages

Texts, sources and materials

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# Preface

This course provides an introduction to the Linguistic/Language Rights on a comparative legal basis. Its aim is to present the forms of the widespread legal regulations affecting languages as well as the case law of the ECtHR and the related international instruments. The first topic of the course is the legal position of the 'official languages'. Both state's and international organisations' official language regulations will be under examination. The second main issue is the examination of those languages that are not in official use and often referred to as 'minority or regional' or 'lesser used' languages. During the semester we will have an overview of the history and present situation of the European legal regulations of linguistic rights. Instruments of the Council of Europe such as the Framework Convention and the Language Charter will be presented in-depth. Some in-state legal regulation and constitutional rule will be presented as well. During the semester the monitoring system of the CoE will be modelled with the participation of the students.

## 1. Definitions

Definitions by the Black's Law Dictionary, 9th Ed.

### Language

(14c) 1. Any organized means of conveying or communicating ideas, esp. by human speech, written characters, or sign language <what language did they speak?>. 2. The letter or grammatical import of a document or instrument, as distinguished from its spirit <the language of the statute>.

See: [ethnologue.com](http://ethnologue.com)

### Law

(bef. 12c) 1. The regime that orders human activities and relations through systematic application of the force of politically organized society, or through social pressure, backed by force, in such a society; the legal system <respect and obey the law>. 2. The aggregate of legislation, judicial precedents, and accepted legal principles; the body of authoritative grounds of judicial and administrative action; esp., the body of rules, standards, and principles that the courts of a particular jurisdiction apply in deciding controversies brought

before them <the law of the land>. 3. The set of rules or principles dealing with a specific area of a legal system <copyright law>. 4. The judicial and administrative process; legal action and proceedings <when settlement negotiations failed, they submitted their dispute to the law>. 5. A statute <Congress passed a law>. Abbr. 1. 6. COMMON LAW <law but not equity>. 7. The legal profession <she spent her entire career in law>.

## Right

n. (bef. 12c) 1. That which is proper under law, morality, or ethics <know right from wrong>. 2. Something that is due to a person by just claim, legal guarantee, or moral principle <the right of liberty>. 3. A power, privilege, or immunity secured to a person by law <the right to dispose of one's estate>. 4. A legally enforceable claim that another will do or will not do a given act; a recognized and protected interest the violation of which is a wrong <a breach of duty that infringes one's right>. 5. (often pl.) The interest, claim, or ownership that one has in tangible or intangible property <a debtor's rights in collateral> <publishing rights>. 6. The privilege of corporate shareholders to purchase newly issued securities in amounts proportionate to their holdings. 7. The negotiable certificate granting such a privilege to a corporate shareholder.

## Human rights

(18c) The freedoms, immunities, and benefits that, according to modern values (esp. at an international level), all human beings should be able to claim as a matter of right in the society in which they live.

## The Bible about languages. The First Story.

Gen.11.1-9.<sup>1</sup> (The story of Babel)

1 The whole world spoke the **same language**, with the same vocabulary.

2 Now, as people moved eastwards they found a valley in the land of Shinar where they settled.

3 They said to one another, 'Come, let us make bricks and bake them in the fire.' For stone they used bricks, and for mortar they used bitumen.

4 'Come,' they said, 'let us build ourselves a city and a tower with its top reaching heaven. Let us make a name for ourselves, so that we do not get scattered all over the world.'

5 Now Yahweh came down to see the city and the tower that the people had built.

6 'So they are all a single people with a **single language!**' said Yahweh. 'This is only the start of their undertakings! Now nothing they plan to do will be beyond them.'

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<sup>1</sup> [https://www.catholic.org/bible/book.php?id=1&bible\\_chapter=11](https://www.catholic.org/bible/book.php?id=1&bible_chapter=11)

7 Come, let us go down and **confuse their language** there, so that they cannot understand one another.'

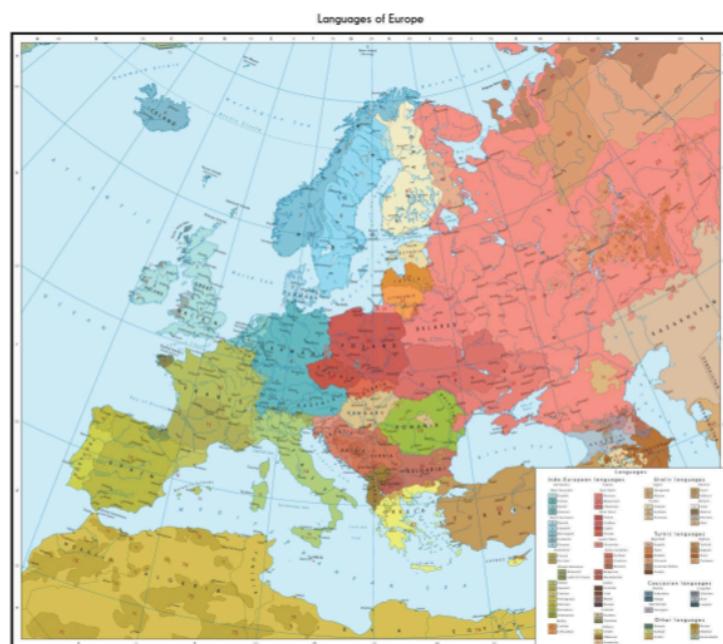
8 Yahweh scattered them thence all over the world, and they stopped building the city.

9 That is why it was called Babel, since there Yahweh confused the language of the whole world, and from there Yahweh scattered them all over the world.

## 2. Relation between Language and Law

Language «----» Law

1. Language as the surface of Law
  - a. (social / legal) linguistics
  - b. Plain Language Movement (2008)
  - c. lingua franca / transmitting languages
  - d. translation, terminology
2. Language as the subject of Law
  - a. protecting the language (commercials, foreign language influence)
  - b. Protecting the dominant language
  - c. *Protecting the non-dominant languages heritage / minority / lesser used language*



### 2.1. Language as the Surface of Law

Tiersma-Solan: [The Oxford Handbook of Language and Law](#) (2016)

Legal linguistics (39-52)

Plain Language Movement (67-86)

## 2.2. Language as the Subject of Law

### 2.2.1. Protection the language itself

See in Hungarian: [2001. évi XCVI. törvény a gazdasági reklámok és az üzletfeliratok, továbbá egyes közérdekű közlemények magyar nyelvű közzétételéről](#)

### 2.2.2. Protection of the official language

An Act of Parliament (November 15, 1995) on the State Language of the Slovak Republic  
[Venice Commission CDL\(2010\)076](#)

### 2.2.3. Protect minority / lesser used languages

Language rights, Linguistic Human Rights (LHRs) - Tove Skutnabb Kangas

## 3. Languages in Official Use

### 3.1. Constitutional regulations

#### Belgium

##### Article 2

Belgium is made up of three Communities: the French Community, the Flemish Community, and the German-speaking Community.

##### Article 4.

Belgium comprises four linguistic regions: the Dutch-speaking region, the French speaking region, the bilingual region of Brussels-Capital and the German-speaking region.

Each municipality of the Kingdom forms part of one of these linguistic regions.

The boundaries of the four linguistic regions can only be changed or corrected by a law passed by a majority of the votes cast in each linguistic group in each House, on condition that a majority of the members of each group is present and provided that the total number of votes in favour that are cast in the two linguistic groups is equal to at least two thirds of the votes cast.

##### Article 43

(1) For cases determined by the Constitution, the elected members of each House are divided into a French linguistic group and a Dutch linguistic group, in the manner determined by law.

(2) The senators referred to in Article 67 (1)(2,4,7) make up the French linguistic group of the Senate. The senators referred to in Article 67 (1)(1,3,6), make up the Dutch linguistic group of the Senate.

#### Article 54

(1) With the exception of budgets and laws requiring a special majority, a justified motion, signed by at least three-quarters of the members of one of the linguistic groups and introduced following the introduction of the report and prior to the final vote in a public session, can declare that the provisions of a draft bill or of a motion are of a nature to gravely damage relations between the Communities.

(3) This procedure can only be applied once by the members of a linguistic group with regard to the same bill or motion.

#### Article 129

(1) The French and Dutch Community Councils rule by decree, in as much as each is concerned, excluding the federal legislator, on the use of language for:

- 1) administrative matters;
- 2) education in those establishments created, subsidized, and recognized by public authorities;
- 3) social relations between employers and their personnel, in addition to corporate acts and documents required by law and by regulations.

(2) These decrees have force of law in French-language and in Dutch-language regions respectively except as concerns:

- those communes or groups of communes contiguous to another linguistic Region and in which the law prescribes or allows use of another language than that of the Region in which they are located. For these communes, a modification of the rules governing the use of languages as described in (1) may take place only through a law adopted by majority vote as described in Article 4, last paragraph;
- services the activities of which extend beyond the linguistic Region within which they are established;
- federal and international institutions designated by law, the activities of which are common to more than one Community.

#### Article 136

(1) There are linguistic groups within the Brussels-Capital Regional Council, and among the governing bodies, qualified with respect to Community issues; their composition, functioning, and responsibilities and, without prejudice to Article 175, their financing, are regulated by a law adopted by majority vote as described in Article 4, last paragraph.

#### Article 138

(1) The French Community Council, on one hand, and the Walloon Regional Council and the French linguistic group of the Brussels-Capital Regional Council, on the other hand, may decide of common accord and each by decree, that the Walloon Regional Council and Government in the French-language Region, and the Brussels-Capital Regional Council and its governing bodies in the bilingual Region of Brussels-Capital may exercise, in full or in part, the responsibilities of the French Community.

(2) These decrees are adopted by a two-thirds majority vote within the French Community Council, and by absolute majority within the Walloon Regional Council and by the French linguistic group within the Brussels-Capital Regional Council, provided that a majority of the Council members or of the members of the linguistic group concerned are present. They may settle the financing of the responsibilities which they designate, in addition to transfers of personnel, of assets, of rights and of obligations which may concern them.

#### Article 139

(1) Upon request by their respective Governments, the German-speaking Community Council and the Walloon Regional Council may, by decree, decide of common accord that Walloon Regional responsibilities may be exercised in whole or in part by the German-speaking Community Council and Government in the German-language Region.

### Cyprus

#### Article 3<sup>2</sup>

1. The official languages of the Republic are Greek and Turkish.
2. Legislative, executive and administrative acts and documents shall be drawn up in both official languages and shall, where under the express provisions of this Constitution promulgation is required, be promulgated by publication in the official Gazette of the Republic in both official languages.
3. Administrative or other official documents addressed to a Greek or a Turk shall be drawn up in the Greek or the Turkish language respectively.
4. Judicial proceedings shall be conducted or made and judgements shall be drawn up in the Greek language if the parties are Greek, in the Turkish language if the parties are Turkish, and in both the Greek and the Turkish languages if the parties are Greek and Turkish. The official language or languages to be used for such purposes in all other cases shall be specified by the Rules of Court made by the High Court under Article 163.
5. Any text in the official Gazette of the Republic shall be published in both official languages in the same issue.

### Finland

#### Article 14

- (1) Finnish and Swedish shall be the national languages of the Republic.
- (2) The right of Finnish citizens to use their mother tongue, whether Finnish or Swedish, before the courts and the administrative authorities, and to obtain from them documents in these languages, shall be guaranteed by law; care shall be taken that the rights of the Finnish speaking population and the rights of the Swedish speaking population of the country shall be promoted by the state upon an identical basis.
- (3) The state shall provide for the intellectual and economic needs of the Finnish speaking and the Swedish speaking populations upon a similar basis.

#### Article 22

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<sup>2</sup> [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=189903#LinkTarget\\_2440](http://www.wipo.int/wipolex/en/text.jsp?file_id=189903#LinkTarget_2440)

Laws and decrees as well as bills submitted by the Government to Parliament and the replies, recommendations, and other documents addressed by Parliament to the Government shall be drawn up in the Finnish and the Swedish languages.

#### Article 50

(3) In redrawing the boundaries of the administrative districts, it is to be observed that these shall, as far as circumstances permit, be so constituted as to contain populations speaking only one language, Finnish or Swedish, or to make the language minorities as small as possible.

#### Article 75

(2) Every conscript, unless he otherwise desires, shall if possible be enrolled in a military unit of which the rank and file speak his own mother tongue (Finnish or Swedish) and shall receive his training in that language. Finnish shall be the language of command of the Armed Forces.

## Hungary

National Avowal:<sup>3</sup> We commit to promoting and safeguarding our heritage, our unique language, Hungarian culture, the languages and cultures of nationalities living in Hungary, along with all man-made and natural assets of the Carpathian Basin. We bear responsibility for our descendants; therefore we shall protect the living conditions of future generations by making prudent use of our material, intellectual and natural resources.

Article H (1) In Hungary the official language shall be Hungarian. (2) Hungary shall protect the Hungarian language. (3) Hungary shall protect the Hungarian Sign Language as a part of the Hungarian culture.

Article XXIX (1) Nationalities living in Hungary shall be constituent parts of the State. Every Hungarian citizen belonging to a nationality shall have the right to freely express and preserve his or her identity. Nationalities living in Hungary shall have the right to use their mother tongue, to use names in their own languages individually and collectively, to nurture their own cultures, and to receive education in their mother tongues.

## Spain

#### Article 3.

1. Castilian is the official Spanish language of the state. All Spaniards have the duty to know it and the right to use it.
2. The other languages of Spain will also be official in the respective autonomous communities, in accordance with their statutes.
3. The richness of the linguistic modalities of Spain is a cultural patrimony which will be the object of special respect and protection.

#### Article 20

3. The law shall regulate the organization and parliamentary control of the means of social communication owned by the State or any public entity and shall guarantee access to those

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<sup>3</sup>

<http://www.kormany.hu/download/e/02/00000/The%20New%20Fundamental%20Law%20of%20Hungary.pdf>

means by significant social and political groups, respecting the pluralism of society and the various languages of Spain.

#### Article 148

1. The Autonomous Communities may assume jurisdiction in the following matters...  
(17) assistance to culture, research and, as the case may be, for the teaching of the language of the Autonomous Community;

### Swiss Federal Constitution

#### Art. 4 National languages

The National Languages are German, French, Italian, and Romansh.

#### Art. 8 Equality before the law

2 No person may be discriminated against, in particular on grounds of origin, race, gender, age, language, social position, way of life, religious, ideological, or political convictions, or because of a physical, mental or psychological disability.

#### Art. 18 Freedom to use any language

The freedom to use any language is guaranteed.

#### Art. 70 Languages

1 The official languages of the Confederation are German, French and Italian. Romansh is also an official language of the Confederation when communicating with persons who speak Romansh.

2 The Cantons shall decide on their official languages. In order to preserve harmony between linguistic communities, the Cantons shall respect the traditional territorial distribution of languages and take account of indigenous linguistic minorities.

3 The Confederation and the Cantons shall encourage understanding and exchange between the linguistic communities.

4 The Confederation shall support the plurilingual Cantons in the fulfilment of their special duties.

5 The Confederation shall support measures by the Cantons of Graubünden and Ticino to preserve and promote the Romansh and the Italian languages.

### USA

No official language on federative level.

<http://www.languagepolicy.net/archives/langleg.htm>

#### State Official English Laws

- [Alabama](#) (1990) – constitutional amendment adopted by voter initiative
- [Alaska](#) (1998) – initiative statute; [ruled unconstitutional](#) in state superior court, March 22, 2002; [full text of ruling](#); on appeal, in 2007 the [Alaska Supreme Court](#) "severed" the unconstitutional provisions and allowed the official-English declaration to take effect; in 2014, the legislature passed [H.B. 216](#), recognizing 20 Alaska Native languages in addition to English

- [Arizona](#) (2006) – constitutional amendment adopted by voter initiative. A [more restrictive measure](#), approved by voters in 1988, was ruled unconstitutional by federal [district](#) and [appellate](#) courts, decisions vacated on March 3, 1997 by the [U.S. Supreme Court](#); then overturned as unconstitutional by the [Arizona Supreme Court](#) on April 28, 1998; U.S. Supreme Court declined to hear English-only proponents' final appeal on January 11, 1999
- [Arkansas](#) (1987) – statute
- [California](#) (1986) – constitutional amendment adopted by voter initiative
- [Colorado](#) (1988) – constitutional amendment adopted by voter initiative
- [Florida](#) (1988) – constitutional amendment adopted by voter initiative
- [Georgia](#) (1996) – statute
- [Hawai‘i](#) (1978) – constitutional amendment declaring the state **officially bilingual** – recognizing English and Native Hawaiian as official languages Article XV, § 4
- [Idaho](#) (2007) – statute
- [Iowa](#) (2002) – statute
- [Illinois](#) (1969) – statute repealing a 1923 declaration of "American" as the official state language and adopting English
- [Indiana](#) (1984) – statute
- [Kansas](#) (2007) – statute
- [Kentucky](#) (1984) – statute
- [Mississippi](#) (1987) – statute
- [Missouri](#) (1998) – statute
- [Montana](#) (1995) – statute
- [Nebraska](#) (1923) – constitutional amendment
- [New Hampshire](#) (1995) – statute
- [North Carolina](#) (1987) – statute
- [North Dakota](#) (1987) – statute
- [Oklahoma](#) (2010) – constitutional amendment
- [South Carolina](#) (1987) – statute
- [South Dakota](#) (1995) – statute
- [Tennessee](#) (1984) – statute
- [Utah](#) (2000) – initiative statute; [appeal by ACLU dropped](#)
- [Virginia](#) (1981) – statute, revised in 1996
- [Wyoming](#) (1996) – statute

#### English Plus Resolutions

- [New Mexico](#) (1989)
- [Oregon](#) (1989)
- [Rhode Island](#) (1992)
- [Washington](#) (1989)

## 3.2. Official languages in international organizations

### 3.2.1. UN

There are six official languages of the UN. These are Arabic, Chinese, English, French, Russian and Spanish. A delegate may speak in any official UN language.

**UN Rules of Procedure:** Rules of procedure, VIII. Languages (A/520/rev.18.)<sup>4</sup>

*Rule 51<sup>5</sup> [see [introduction paras. 5, 27, 28, 34 and 40](#)]*

Arabic, Chinese, English, French, Russian and Spanish shall be both the official and the working languages of the General Assembly, its committees and its subcommittees.

UN and Multilingualism: <https://www.un.org/sg/en/multilingualism/index.shtml>

### 3.2.2. International Court of Justice

**Statute of the Court<sup>6</sup>**

CHAPTER III - PROCEDURE

Article 39

1. The official languages of the Court shall be French and English. If the parties agree that the case shall be conducted in French, the judgment shall be delivered in French. If the parties agree that the case shall be conducted in English, the judgment shall be delivered in English.

2. In the absence of an agreement as to which language shall be employed, each party may, in the pleadings, use the language which it prefers; the decision of the Court shall be given in French and English. In this case the Court shall at the same time determine which of the two texts shall be considered as authoritative.

3. The Court shall, at the request of any party, authorize a language other than French or English to be used by that party.

### 3.2.3. International Criminal Court (ICC-CPI)

Rome Statute of the International Criminal Court<sup>7</sup>

*Article 50 - Official and working languages*

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<sup>4</sup> <http://www.un.org/en/ga/about/ropga/index.shtml>

<sup>5</sup> <http://www.un.org/en/ga/about/ropga/lang.shtml>

<sup>6</sup> <http://www.icj-cij.org/en/statute>

<sup>7</sup> <https://www.icc-cpi.int/resource-library/Documents/RS-Eng.pdf>

1. The official languages of the Court shall be Arabic, Chinese, English, French, Russian and Spanish. The judgements of the Court, as well as other decisions resolving fundamental issues before the Court, shall be published in the official languages. The Presidency shall, in accordance with the criteria established by the Rules of Procedure and Evidence, determine which decisions may be considered as resolving fundamental issues for the purposes of this paragraph.
2. The working languages of the Court shall be English and French. The Rules of Procedure and Evidence shall determine the cases in which other official languages may be used as working languages.
3. At the request of any party to a proceeding or a State allowed to intervene in a proceeding, the Court shall authorize a language other than English or French to be used by such a party or State, provided that the Court considers such authorization to be adequately justified.

### 3.2.4. Council of Europe

#### **Statute of the Council of Europe:** (1991. évi LXXI. törvény)

*Article 12.* The official languages of the Council of Europe are English and French. The Rules of Procedure of the Committee of Ministers and of the Consultative Assembly shall determine in what circumstances and under what conditions other languages may be used.

#### **Committee of Ministers**

Procedures and working methods (17 October 2017)<sup>8</sup>

#### *8. Languages (Article 8)*

1. English and French shall be the official languages, in accordance with Article 12 of the Statute.

2. A Deputy may speak in any other language, but in that case he himself shall provide for interpretation into one of the official languages

#### II. COMMITTEE OF MINISTERS AT MINISTERIAL LEVEL

##### 4.5 Interpretation

During the formal Session, besides the two official languages, simultaneous interpretation is provided in German, Italian and Russian, as well as Spanish (passive).

During the informal working lunch/dinner, simultaneous interpretation is provided in English and French.

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<sup>8</sup>

[https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=090000168058d922#\\_Toc453839758](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=090000168058d922#_Toc453839758)

## **Parliamentary Assembly**

Rules of Procedure of the Assembly (October 2017)

(Resolution 1202 (1999) adopted on 4 November 1999) with subsequent modifications of the Rules of Procedure

### *Rule 28 - Official and working languages*

28.1. The official languages of the Assembly shall be English and French.

28.2. Documents of the Assembly shall be published in both official languages.

28.3. The working languages in the Assembly shall be German, Italian, Russian and Turkish.

### *Rule 29 - Interpretation in the Assembly*

29.1. Words spoken in an official or working language shall be simultaneously interpreted into the other official and working languages.

29.2. Speeches may be made in a language other than the official or working languages. In such cases the speaker shall be responsible for arranging for simultaneous interpretation into one of the official or working languages, which shall be simultaneously interpreted into the other official and working languages.

### *Rule 30 - Interpretation in committees*

30.1. If interpretation is required in committee, provision shall be made, as far as possible, for simultaneous or, failing that, consecutive interpretation, into the other official and working languages. Interpretation at meetings of the Committee on the *Election of Judges* to the European Court of Human Rights shall be *limited to the two official languages*. Interpretation in sub-committees is in principle limited to two official or working languages.

30.2. Subject to the agreement of the chairperson of the committee, a speaker who cannot use one of the official or working languages may bring an interpreter. Interpretation shall then be provided, as far as possible, on the same conditions as in the Assembly.

## **Congress of Local and Regional Authorities of Europe (CLARE)**

### Rules and Procedures of the Congress

#### *Rule 94 – Official languages*

1. The official languages of the Congress are those of the Council of Europe: English and French. All texts for adoption by the Congress and its chambers must be drawn up in these languages.

2. Proposals and memoranda presented in accordance with the provisions of Rules 27 and 28 are published in the official languages. They may, however, be drawn up in one of the working languages.

3. Chairing of Congress and chamber sessions must be done in an official language.

*Rule 95 – Working languages*

The working languages of the Congress are those of the Parliamentary Assembly. Simultaneous interpretation must be provided between these languages during proceedings.

*Rule 96 – Other languages*

During proceedings delegates have the opportunity to use other languages than the official and working languages. In this case, funding for the interpretation of these other languages into the official languages and the working languages must be at the initiative and cost of the delegations that made the request and not covered by the Congress budget.

*Rule 97 – Access to and declassification of Congress documents*

Access to and declassification of Congress documents including those of its working structures are governed by Administrative Rules.

### 3.2.5. European Court of Human Rights (EctHR)

Rules of Court:<sup>9</sup>

*Rule 34 – Use of languages*

1. The official languages of the Court shall be English and French. 2. In connection with applications lodged under Article 34 of the Convention, and for as long as no Contracting Party has been given notice of such an application in accordance with these Rules, all communications with and oral and written submissions by applicants or their representatives, if not in one of the Court's official languages, shall be in one of the official languages of the Contracting Parties. If a Contracting Party is informed or given notice of an application in accordance with these Rules, the application and any accompanying documents shall be communicated to that State in the language in which they were lodged with the Registry by the applicant.

3. (a) All communications with and oral and written submissions by applicants or their representatives in respect of a hearing, or after notice of an application has been given to a Contracting Party, shall be in one of the Court's official languages, unless the President of the Chamber grants leave for the continued use of the official language of a Contracting Party.

(b) If such leave is granted, the Registrar shall make the necessary arrangements for the interpretation and translation into English or French of the applicant's oral and written submissions respectively, in full or in part, where the President of the Chamber considers it to be in the interests of the proper conduct of the proceedings.

(c) Exceptionally the President of the Chamber may make the grant of leave subject to the condition that the applicant bear all or part of the costs of making such arrangements.

(d) Unless the President of the Chamber decides otherwise, any decision made under the foregoing provisions of this paragraph shall remain valid in all subsequent proceedings in the

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<sup>9</sup> [https://www.echr.coe.int/Documents/Rules\\_Court\\_ENG.pdf](https://www.echr.coe.int/Documents/Rules_Court_ENG.pdf)

case, including those in respect of requests for referral of the case to the Grand Chamber and requests for interpretation or revision of a judgment under Rules 73, 79 and 80 respectively.

4. (a) All communications with and oral and written submissions by a Contracting Party which is a party to the case shall be in one of the Court's official languages. The President of the Chamber may grant the Contracting Party concerned leave to use one of its official languages for its oral and written submissions.

(b) If such leave is granted, it shall be the responsibility of the requesting Party

(i) to file a translation of its written submissions into one of the official languages of the Court within a time-limit to be fixed by the President of the Chamber. Should that Party not file the translation within that time-limit, the Registrar may make the necessary arrangements for such translation, the expenses to be charged to the requesting Party;

(ii) to bear the expenses of interpreting its oral submissions into English or French.

The Registrar shall be responsible for making the necessary arrangements for such interpretation.

(c) The President of the Chamber may direct that a Contracting Party which is a party to the case shall, within a specified time, provide a translation into, or a summary in, English or French of all or certain annexes to its written submissions or of any other relevant document, or of extracts therefrom.

(d) The preceding sub-paragraphs of this paragraph shall also apply, mutatis mutandis, to thirdparty intervention under Rule 44 and to the use of a non-official language by a third party.

5. The President of the Chamber may invite the respondent Contracting Party to provide a translation of its written submissions in the or an official language of that Party in order to facilitate the applicant's understanding of those submissions.

6. Any witness, expert or other person appearing before the Court may use his or her own language if he or she does not have sufficient knowledge of either of the two official languages. In that event the Registrar shall make the necessary arrangements for interpreting or translation.

*Rule 57 – Language of the decision*

1. Unless the Court decides that a decision shall be given in both official languages, all decisions of Chambers shall be given either in English or in French.

2. Publication of such decisions in the official reports of the Court, as provided for in Rule 78, shall be in both official languages of the Court.

*Rule 76 – Language of the judgment*

1. Unless the Court decides that a judgment shall be given in both official languages, all judgments shall be given either in English or in French.

2. Publication of such judgments in the official reports of the Court, as provided for in Rule 78, shall be in both official languages of the Court.

*Rule 9A*

7. A record shall be kept of the Bureau's meetings and distributed to the Judges in both the Court's official languages. The secretary to the Bureau shall be designated by the Registrar in agreement with the President.

### 3.2.6. Organisation for Security and Cooperation for Europe

OSCE Rules of Procedure. MC.DOC/1/06. 2006.<sup>10</sup>

#### *IV. Rules of procedure for decision-making bodies*

##### *IV.1 General rules*

###### *(B) Working languages and official records*

1. The working languages of the OSCE shall be: English, French, German, Italian, Russian and Spanish.

2. Meetings of the decision-making bodies shall be conducted with interpretation between the working languages. Exceptionally, the Chairperson of a decision-making body may suggest, giving a clear explanation of the reasons, that, with the consent of the participating States, a meeting or a part of a meeting should be held in one language only, without interpretation.

3. Any Representative may make a statement in a language other than the working languages. In this case, he/she shall himself/herself provide for interpretation into one of the working languages.

4. Proceedings of the meetings of decision-making bodies shall be recorded in the journals of meetings, which shall constitute the only official OSCE records. These shall be issued both on paper and in electronic format in all the working languages, and shall be made public.

5. The journals shall be in a standard OSCE format and shall contain the following information about a meeting: the date(s), the time of opening/suspension/resumption/closing, name(s) of the Chairperson(s), subjects discussed, lists of statements made under each agenda item and sub-item (with reference numbers of statements distributed), records of decisions adopted, as well as the date, time and place of the next meeting.

6. The texts of decisions, with interpretative statements and formal reservations attached, if any, shall be circulated to the participating States in all the working languages in a standard OSCE format, shall be appended to the journal of the meeting at which the decision has been adopted and shall be made public. The texts of decisions adopted by a decision-making body through a silence procedure shall be appended to the journal of the first meeting of that body following the expiration of the silence period.

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<sup>10</sup> <https://www.osce.org/mc/22775?download=true>

7. Statements made at a meeting may be annexed to the journal of the meeting if so requested by a Representative at the meeting and agreed by the Chairperson. Such documents shall be submitted in writing to the Secretariat. The Chairperson may, if necessary, annex to the journal other documents relevant to that particular meeting, including Chairperson's statements, after announcing that at the meeting.
8. The journals shall be issued by the Secretariat as soon as possible, upon approval of their contents by the Chairperson(s) of the meeting in question.
9. Language conforming of the translations of documents adopted by the Ministerial Council and Meetings of Heads of State or Government shall be organized by the respective Chairmanship, following the distribution in all the working languages of the journal(s) of the respective meeting(s). Originally adopted texts of those documents or texts of documents not falling within the meaning of paragraph II(A)3 shall not be subject to language conforming.
10. The final document of each Ministerial Council meeting or Meeting of Heads of State or Government shall be compiled in a standard OSCE format as a separate volume, the contents and structure of which shall be defined by the respective Chairmanship with the assistance of the Secretariat. The final document shall contain the texts of all the documents adopted at the meeting, the texts of other documents annexed to its journal(s) and the texts of selected reports and letters submitted to that meeting. The final document shall be printed and issued in an electronic format in all the working languages.
11. All statements made at meetings of decision-making bodies in working languages other than English and subsequently distributed to all the participating States in a written form shall be translated by the Secretariat into English.

### 3.2.7. European Union

Multilingualism overview: [https://europa.eu/european-union/topics/multilingualism\\_en](https://europa.eu/european-union/topics/multilingualism_en)

There are currently 24: Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovene, Spanish and Swedish.

TEU+TFEU:

<http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12012M/TXT&from=EN>

*TFEU Article 20 (ex Article 17 TEC)*

1. Citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to and not replace national citizenship.
2. Citizens of the Union shall enjoy the rights and be subject to the duties provided for in the Treaties. They shall have, *inter alia*:  
(...)

(d) the right to petition the European Parliament, to apply to the European Ombudsman, and to address the institutions and advisory bodies of the Union in any of the Treaty languages and to obtain a reply in the same language.

*TFEU Article 24 (ex Article 21 TEC)*

The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall adopt the provisions for the procedures and conditions required for a citizens' initiative within the meaning of Article 11 of the Treaty on European Union, including the minimum number of Member States from which such citizens must come.

(...)

Every citizen of the Union may write to any of the institutions or bodies referred to in this Article or in Article 13 of the Treaty on European Union in one of the languages mentioned in Article 55(1) of the Treaty on European Union and have an answer in the same language.

*Article 342 (ex Article 290 TEC)*

The rules governing the languages of the institutions of the Union shall, without prejudice to the provisions contained in the Statute of the Court of Justice of the European Union, be determined by the Council, acting unanimously by means of regulations.

*Treaty on European Union Article 55 (ex Article 53 TEU)*

1. This Treaty, drawn up in a single original in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, the texts in each of these languages being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which will transmit a certified copy to each of the governments of the other signatory States.

2. This Treaty may also be translated into any other languages as determined by Member States among those which, in accordance with their constitutional order, enjoy official status in all or part of their territory. A certified copy of such translations shall be provided by the Member States concerned to be deposited in the archives of the Council.

### 3.2.8. European Court of Justice (ECJ)

Texts governing procedure: [https://curia.europa.eu/jcms/jcms/Jo2\\_7031/en/](https://curia.europa.eu/jcms/jcms/Jo2_7031/en/)

Rules of Procedure of the Court of Justice

Chapter 8

LANGUAGES

*Article 36 Language of a case*

The language of a case shall be Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovene, Spanish or Swedish.

*Article 37 Determination of the language of a case*

1. In direct actions, the language of a case shall be chosen by the applicant, except that:

- (a) where the defendant is a Member State, the language of the case shall be the official language of that State; where that State has more than one official language, the applicant may choose between them;
- (b) at the joint request of the parties, the use of another of the languages mentioned in Article 36 for all or part of the proceedings may be authorised;
- (c) at the request of one of the parties, and after the opposite party and the Advocate General have been heard, the use of another of the languages mentioned in Article 36 may be authorised as the language of the case for all or part of the proceedings by way of derogation from subparagraphs (a) and (b); such a request may not be submitted by one of the institutions of the European Union.

2. Without prejudice to the provisions of paragraph 1(b) and (c), and of Article 38(4) and (5) of these Rules,

- (a) in appeals against decisions of the General Court as referred to in Articles 56 and 57 of the Statute, the language of the case shall be the language of the decision of the General Court against which the appeal is brought;
- (b) where, in accordance with the second paragraph of Article 62 of the Statute, the Court decides to review a decision of the General Court, the language of the case shall be the language of the decision of the General Court which is the subject of review;
- (c) in the case of challenges concerning the costs to be recovered, applications to set aside judgments by default, third-party proceedings and applications for interpretation or revision of a judgment or for the Court to remedy a failure to adjudicate, the language of the case shall be the language of the decision to which those applications or challenges relate.

3. In preliminary ruling proceedings, the language of the case shall be the language of the referring court or tribunal. At the duly substantiated request of one of the parties to the main proceedings, and after the other party to the main proceedings and the Advocate General have been heard, the use of another of the languages mentioned in Article 36 may be authorised for the oral part of the procedure. Where granted, such authorisation shall apply in respect of all the interested persons referred to in Article 23 of the Statute.

4. Requests as above may be decided on by the President; the latter may, and where he wishes to accede to a request without the agreement of all the parties must, refer the request to the Court.

*Article 38 Use of the language of the case*

1. The language of the case shall in particular be used in the written and oral pleadings of the parties, including the items and documents produced or annexed to them, and also in the minutes and decisions of the Court.
2. Any item or document produced or annexed that is expressed in another language must be accompanied by a translation into the language of the case.
3. However, in the case of substantial items or lengthy documents, translations may be confined to extracts. At any time the Court may, of its own motion or at the request of one of the parties, call for a complete or fuller translation.
4. Notwithstanding the foregoing provisions, a Member State shall be entitled to use its official language when taking part in preliminary ruling proceedings, when intervening in a case before the Court or when bringing a matter before the Court pursuant to Article 259 TFEU. This provision shall apply both to written documents and to oral statements. The Registrar shall arrange in each instance for translation into the language of the case.
5. The States, other than the Member States, which are parties to the EEA Agreement, and also the EFTA Surveillance Authority, may be authorised to use one of the languages mentioned in Article 36, other than the language of the case, when they take part in preliminary ruling proceedings or intervene in a case before the Court. This provision shall apply both to written documents and to oral statements. The Registrar shall arrange in each instance for translation into the language of the case.
6. Non-Member States taking part in preliminary ruling proceedings pursuant to the fourth paragraph of Article 23 of the Statute may be authorised to use one of the languages mentioned in Article 36 other than the language of the case. This provision shall apply both to written documents and to oral statements. The Registrar shall arrange in each instance for translation into the language of the case.
7. Where a witness or expert states that he is unable adequately to express himself in one of the languages referred to in Article 36, the Court may authorise him to give his evidence in another language. The Registrar shall arrange for translation into the language of the case.
8. The President and the Vice-President of the Court and also the Presidents of Chambers in conducting oral proceedings, Judges and Advocates General in putting questions and Advocates General in delivering their Opinions may use one of the languages referred to in Article 36 other than the language of the case. The Registrar shall arrange for translation into the language of the case.

*Article 39 Responsibility of the Registrar concerning language arrangements*

The Registrar shall, at the request of any Judge, of the Advocate General or of a party, arrange for anything said or written in the course of the proceedings before the Court to be translated into the languages chosen from those referred to in Article 36.

*Article 40 Languages of the publications of the Court*

Publications of the Court shall be issued in the languages referred to in Article 1 of Council Regulation No 1.

*Article 41 Authentic texts*

The texts of documents drawn up in the language of the case or, where applicable, in another language authorised pursuant to Articles 37 or 38 of these Rules shall be authentic.

*Article 42 Language service of the Court*

The Court shall set up a language service staffed by experts with adequate legal training and a thorough knowledge of several official languages of the European Union.

## 4. International documents of minority or regional languages

### 4.1. League of Nations (WW1)

- 1919: Little Treaty of Versailles (Poland);  
Treaty of St Germain-en-Laye (Austria, Czechoslovakia Yugoslavia);  
Treaty of Paris (Romania); the Greek as the(1920);  
Treaty of Neuilly-sur-Seine (Bulgaria)
- 1920: Treaty of Trianon (Hungary)  
Treaty of Sèvres (Greece)
- 1923: Treaty of Lausanne (Turkey)

#### 4.1.1. Treaty of Trianon (Hungary)

*Treaty of Peace Between The Allied and Associated Powers and Hungary And Protocol and Declaration, Signed at Trianon June 4, 1920<sup>11</sup>*

##### SECTION VI.

##### PROTECTION OF MINORITIES.

##### ARTICLE 54.

Hungary undertakes that the stipulations contained in this Section shall be recognised as fundamental laws, and that no law, regulation or official action shall connect or interfere with these stipulations, nor shall any law, regulation or official action prevail over them.

##### ARTICLE 55.

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<sup>11</sup> [https://wwi.lib.byu.edu/index.php/Treaty\\_of\\_Trianon](https://wwi.lib.byu.edu/index.php/Treaty_of_Trianon) //  
<https://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=2179&context=ils> Ratified in HU by the  
 1921. évi XXXIII. törvénycikk

Hungary undertakes to assure full and complete protection of life and liberty to all inhabitants of Hungary without distinction of birth, nationality, language, race or religion.

All inhabitants of Hungary shall be entitled to the free exercise, whether public or private, of any creed, religion or belief whose practices are not inconsistent with public order or public morals.

#### ARTICLE 56.

Hungary admits and declares to be Hungarian nationals *ipso facto* and without the requirement of any formality all persons possessing at the date of the coming into force of the present Treaty rights of citizenship (*pertinenza*) within Hungarian territory who are not nationals of any other State.

#### ARTICLE 57

All persons born in Hungarian territory who are not born nationals of another State shall *ipso facto* become Hungarian nationals.

#### ARTICLE 58.

All Hungarian nationals shall be equal before the law and shall enjoy the same civil and political rights without distinction as to race, language or religion.

Difference of religion, creed or confession shall not prejudice any Hungarian national in matters relating to the enjoyment of civil or political rights, as for instance admission to public employments, functions and honours, or the exercise of professions and industries.

No restriction shall be imposed on the free use by any Hungarian national of any language in private intercourse, in commerce, in religion, in the press or in publications of any kind, or at public meetings.

Notwithstanding any establishment by the Hungarian Government of an official language, adequate facilities shall be given to Hungarian nationals of non-Magyar speech for the use of their language, either orally or in writing before the Courts.

Hungarian nationals who belong to racial, religious or linguistic minorities shall enjoy the same treatment and security in law and in fact as the other Hungarian nationals. In particular they shall have an equal right to establish, manage and control at their own expense charitable, religious and social institutions, schools and other educational establishments, with the right to use their own language and to exercise their religion freely therein.

#### ARTICLE 59.

Hungary will provide in the public educational system in towns and districts in which a considerable proportion of Hungarian nationals of other than Magyar speech are resident adequate facilities for ensuring that in the primary schools the instruction shall be given to the children of such Hungarian nationals through the medium of their own language. This provision shall not prevent the Hungarian Government from making the teaching of the Magyar language obligatory in the said schools.

In towns and districts where there is a considerable proportion of Hungarian nationals belonging to racial, religious or linguistic minorities, these minorities shall be assured an equitable share in the enjoyment and application of sums which may be provided out of public funds under the State, municipal or other budgets, for educational, religious or charitable purposes.

#### ARTICLE 60.

Hungary agrees that the stipulations in the foregoing Articles of this Section, so far as they affect persons belonging to racial, religious or linguistic minorities, constitute obligations of international concern and shall be placed under the guarantee of the League of Nations. They shall not be modified without the assent of a majority of the Council of the League of Nations. The Allied and Associated Powers represented on the Council severally agree not to withhold their assent from any modification in these Articles which is in due form assented to by a majority of the Council of the League of Nations.

Hungary agrees that any Member of the Council of the League of Nations shall have the right to bring to the attention of the Council any infraction, or any danger of infraction, of any of these obligations, and that the Council may thereupon take such action and give such direction as it may deem proper and effective in the circumstances.

Hungary further agrees that any difference of opinion as to questions of law or fact arising out of these Articles between the Hungarian Government and any one of the Allied and Associated Powers or any other Power, a Member of the Council of the League of Nations, shall be held to be a dispute of an international character under Article 14 of the Covenant of the League of Nations. The Hungarian Government hereby consents that any such dispute shall, if the other party thereto demands, be referred to the Permanent Court of International Justice. The decision of the Permanent Court shall be final and shall have the same force and effect as an award under Article 13 of the Covenant.

#### 4.1.2. Treaty of Saint Germain en Laye (Austria)

*Treaty of Peace between the Allied and Associated Powers and Austria (St. Germain-en-Laye, 10 September 1919)*<sup>12</sup>

#### SECTION V

#### PROTECTION OF MINORITIES

##### Article 62

Austria undertakes that the stipulations contained in this Section shall be recognised as fundamental laws, and that no law, regulation or official action shall conflict or interfere with these stipulations, nor shall any law, regulation or official action prevail over them.

##### Article 63

Austria undertakes to assure full and complete protection of life and liberty to all inhabitants of Austria without distinction of birth, nationality, language, race or religion.

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<sup>12</sup> <http://www.austlii.edu.au/au/other/dfat/treaties/1920/3.html>

All inhabitants of Austria shall be entitled to the free exercise, whether public or private, of any creed, religion or belief, whose practices are not inconsistent with public order or public morals.

**Article 64**

Austria admits and declares to be Austrian nationals *ipso facto* and without the requirement of any formality all persons possessing at the date of the coming into force of the present Treaty rights of citizenship (*pertinenza*) within Austrian territory who are not nationals of any other State.

**Article 65**

All persons born in Austrian territory who are not born nationals of another State shall *ipso facto* become Austrian nationals.

**Article 66**

All Austrian nationals shall be equal before the law and shall enjoy the same civil and political rights without distinction as to race, language or religion.

Differences of religion, creed or confession shall not prejudice any Austrian national in matters relating to the enjoyment of civil or political rights, as for instance admission to public employments, functions and honours, or the exercise of professions and industries.

No restriction shall be imposed on the free use by any Austrian national of any language in private intercourse, in commerce, in religion, in the press or in publications of any kind, or at public meetings.

Notwithstanding any establishment by the Austrian Government of an official language, adequate facilities shall be given to Austrian nationals of non-German speech for the use of their language, either orally or in writing, before the courts.

**Article 67**

Austrian nationals who belong to racial, religious or linguistic minorities shall enjoy the same treatment and security in law and in fact as the other Austrian nationals. In particular they shall have an equal right to establish, manage and control at their own expense charitable, religious and social institutions, schools and other educational establishments, with the right to use their own language and to exercise their religion freely therein.

**Article 68**

Austria will provide in the public educational system in towns and districts in which a considerable proportion of Austrian nationals of other than German speech are resident adequate facilities for ensuring that in the primary schools the instruction shall be given to the children of such Austrian nationals through the medium of their own language. This provision shall not prevent the Austrian Government from making the teaching of the German language obligatory in the said schools.

In towns and districts where there is a considerable proportion of Austrian nationals belonging to racial, religious or linguistic minorities, these minorities shall be assured an equitable share in the enjoyment and application of the sums which may be provided out of public funds under the State, municipal or other budgets for educational, religious or charitable purposes.

**Article 69**

Austria agrees that the stipulations in the foregoing Articles of this Section, so far as they affect persons belonging to racial, religious or linguistic minorities, constitute obligations of international concern and shall be placed under the guarantee of the League of Nations.

They shall not be modified without the assent of a majority of the Council of the League of

Nations. The Allied and Associated Powers represented on the Council severally agree not to withhold their assent from any modification in these Articles which is in due form assented to by a majority of the Council of the League of Nations.

Austria agrees that any Member of the Council of the League of Nations shall have the right to bring to the attention of the Council any infraction, or any danger of infraction, of any of these obligations, and that the Council may thereupon take such action and give such direction as it may deem proper and effective in the circumstances.

Austria further agrees that any difference of opinion as to questions of law or fact arising out of these Articles between the Austrian Government and any one of the Principal Allied and Associated Powers or any other Power, a Member of the Council of the League of Nations, shall be held to be a dispute of an international character under Article 14 of the Covenant of the League of Nations. The Austrian Government hereby consents that any such dispute shall, if the other party thereto demands, be referred to the Permanent Court of International Justice. The decision of the Permanent Court shall be final and shall have the same force and effect as an award under Article 13 of the Covenant.

#### 4.1.3. Treaty of Saint Germain en Laye (Czecho-Slovakia, Romania, Poland, SCS)

[Text](#)

### 4.2. United Nations

#### 4.2.1. Universal Declaration of Human Rights (UDHR)<sup>13</sup>

*Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 ([General Assembly resolution 217 A](#)).*

**Article 2.** Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, **language**, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

#### 4.2.2. International Covenant on Civil and Political Rights (ICCPR)<sup>14</sup>

*Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966. Entry into force 23 March 1976.*

<sup>13</sup> <http://www.un.org/en/universal-declaration-human-rights/>

<sup>14</sup> <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>. HU: Polgári és Politikai Jogok Nemzetközi Egyezségokmánya (1976. évi 8. törvényerejű rendelet

[http://njt.hu/cgi\\_bin/njt\\_doc.cgi?docid=2483.4091](http://njt.hu/cgi_bin/njt_doc.cgi?docid=2483.4091)) Ensz Kisebbségi Kézikönyve:

<http://www.hunstor.se/dosszie/kissebbsegikk.pdf> Kisebbségvédelem és nemzetközi szervezetek: <http://mek.oszk.hu/05900/05981/05981.pdf>

**Article 27.** In those States in which **ethnic, religious or linguistic minorities** exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

**Human Rights Committee Annual Report to the U.N. General Assembly, U.N. Doc. A/49/40 vol. 1 (1994).**

**ANNEX V - General comments under article 40, paragraph 4, of the International Covenant on Civil and Political Rights 1/ General comment No. 23 (50) (art. 27) 2/ , 3/**

1. Article 27 of the Covenant provides that, in those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language. The Committee observes that this article establishes and recognizes a right which is conferred on individuals belonging to minority groups and which is distinct from, and additional to, all the other rights which, as individuals in common with everyone else, they are already entitled to enjoy under the Covenant.

2. In some communications submitted to the Committee under the Optional Protocol, the right protected under article 27 has been confused with the right of peoples to self-determination proclaimed in article 1 of the Covenant. Further, in reports submitted by States parties under article 40 of the Covenant, the obligations placed upon States parties under article 27 have sometimes been confused with their duty under article 2, paragraph 1, to ensure the enjoyment of the rights guaranteed under the Covenant without discrimination and also with equality before the law and equal protection of the law under article 26.

3.1. The Covenant draws a distinction between the right to self-determination and the rights protected under article 27. The former is expressed to be a right belonging to peoples and is dealt with in a separate part (part I) of the Covenant. Self-determination is not a right cognizable under the Optional Protocol. Article 27, on the other hand, relates to rights conferred on individuals as such and is included, like the articles relating to other personal rights conferred on individuals, in part III of the Covenant and is cognizable under the Optional Protocol. 4/

3.2. The enjoyment of the rights to which article 27 relates does not prejudice the sovereignty and territorial integrity of a State party. At the same time, one or other aspect of the rights of individuals protected under that article - for example, to enjoy a particular culture - may consist in a way of life which is closely associated with territory and use of its resources. 5/ This may particularly be true of members of indigenous communities constituting a minority.

4. The Covenant also distinguishes the rights protected under article 27 from the guarantees under article 2, paragraph 1, and article 26. The entitlement, under article 2, paragraph 1, to enjoy the rights under the Covenant without discrimination applies to all individuals within the territory or under the jurisdiction of the State whether or not those

persons belong to a minority. In addition, there is a distinct right provided under article 26 of equality before the law, equal protection of the law, and non-discrimination in respect of rights granted and obligations imposed by the States. It governs the exercise of all rights, whether protected under the Covenant or not, which the State party confers by law on individuals within its territory or under its jurisdiction, irrespective of whether they belong to the minorities specified in article 27 or not. 6/ Some States parties who claim that they do not discriminate on grounds of ethnicity, language or religion wrongly contend, on that basis alone, that they have no minorities.

5.1. The terms used in article 27 indicate that the persons designed to be protected are those who belong to a group and who share in common a culture, a religion and/or a language. Those terms also indicate that the individuals designed to be protected need not be citizens of the State party. In this regard, the obligations deriving from article 2, paragraph 1, are also relevant, since a State party is required under that article to ensure that the rights protected under the Covenant are available to all individuals within its territory and subject to its jurisdiction, except rights which are expressly made to apply to citizens, for example, political rights under article 25. A State party may not, therefore, restrict the rights under article 27 to its citizens alone.

5.2. Article 27 confers rights on persons belonging to minorities which "exist" in a State party. Given the nature and scope of the rights envisaged under the article, it is not relevant to determine the degree of permanence that the term "exist" connotes. Those rights simply are that individuals belonging to those minorities should not be denied the right, in community with members of their group, to enjoy their own culture, to practise their religion and speak their language. Just as they need not be nationals or citizens, they need not be permanent residents. Thus, migrant workers or even visitors in a State party constituting such minorities are entitled not to be denied the exercise of those rights. As any other individual in the territory of the State party, they would, also for this purpose, have the general rights, for example, to freedom of association, of assembly and of expression. The existence of an ethnic, religious or linguistic minority in a given State party does not depend upon a decision by that State party but requires to be established by objective criteria.

5.3. The right of individuals belonging to a linguistic minority to use their language among themselves, in private or in public, is distinct from other language rights protected under the Covenant. In particular, it should be distinguished from the general right to freedom of expression protected under article 19. The latter right is available to all persons, irrespective of whether they belong to minorities or not. Further, the right protected under article 27 should be distinguished from the particular right which article 14, paragraph 3 (f), of the Covenant confers on accused persons to interpretation where they cannot understand or speak the language used in the courts. Article 14, paragraph 3 (f), does not in any other circumstances confer on accused persons the right to use or speak the language of their choice in court proceedings. 7/

6.1. Although article 27 is expressed in negative terms, that article, nevertheless, does recognize the existence of a "right" and requires that it shall not be denied. Consequently, a State party is under an obligation to ensure that the existence and the exercise of this right are protected against denial or violation. Positive measures of protection are, therefore,

required not only against the acts of the State party itself, whether through its legislative, judicial or administrative authorities, but also against the acts of other persons within the State party.

6.2. Although the rights protected under article 27 are individual rights, they depend in turn on the ability of the minority group to maintain its culture, language or religion. Accordingly, positive measures by States may also be necessary to protect the identity of a minority and the rights of its members to enjoy and develop their culture and language and to practise their religion, in community with the other members of the group. In this connection, it has to be observed that such positive measures must respect the provisions of article 2, paragraph 1, and article 26 of the Covenant, both as regards the treatment accorded different minorities and the treatment accorded the persons belonging to them and the remaining part of the population. However, as long as those measures are aimed at correcting conditions which prevent or impair the enjoyment of the rights guaranteed under article 27, they may constitute a legitimate differentiation under the Covenant, provided that they are based on reasonable and objective criteria.

7. With regard to the exercise of the cultural rights protected under article 27, the Committee observes that culture manifests itself in many forms, including a particular way of life associated with the use of land resources, especially in the case of indigenous peoples. That right may include such traditional activities as fishing or hunting and the right to live in reserves protected by law. 8/ The enjoyment of those rights may require positive legal measures of protection and measures to ensure the effective participation of members of minority communities in decisions which affect them.

8. The Committee observes that none of the rights protected under article 27 of the Covenant may be legitimately exercised in a manner or to an extent inconsistent with the other provisions of the Covenant.

9. The Committee concludes that article 27 relates to rights whose protection imposes specific obligations on States parties. The protection of these rights is directed to ensure the survival and continued development of the cultural, religious and social identity of the minorities concerned, thus enriching the fabric of society as a whole. Accordingly, the Committee observes that these rights must be protected as such and should not be confused with other personal rights conferred on one and all under the Covenant. States parties, therefore, have an obligation to ensure that the exercise of these rights is fully protected and they should indicate in their reports the measures they have adopted to this end.

#### Notes

1/ For the nature and purpose of the general comments, see Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 40 (A/36/40), annex VII, introduction. For a description of the history of the method of work, the elaboration of general comments and their use, see *ibid.*, Thirty-ninth Session, Supplement No. 40 (A/39/40) and Corr.1 and 2), paras. 541-557. For the text of the general comments already adopted by the Committee, see *ibid.*, Thirty-sixth Session, Supplement No. 40 (A/36/40), annex VII; *ibid.*, Thirty-seventh Session, Supplement No. 40 (A/37/40), annex V; *ibid.*, Thirty-eighth Session,

Supplement No. 40 (A/38/40), annex VI; *ibid.*, Thirty-ninth Session, Supplement No. 40 (A/39/40) and Corr.1 and 2), annex VI; *ibid.*, Fortieth Session, Supplement No. 40 (A/40/40), annex VI; *ibid.*, Forty-first Session, Supplement No. 40 (A/41/40), annex VI; *ibid.*, Forty-third Session, Supplement No. 40 (A/43/40), annex VI; *ibid.*, Forty-fourth Session, Supplement No. 40 (A/44/40), annex VI; *ibid.*, Forty-fifth Session, Supplement No. 40 (A/45/40), annex VI; *ibid.*, Forty-seventh Session, Supplement No. 40 (A/47/40), annex VI; and *ibid.*, Forty-eighth Session, Supplement No. 40 (A/48/40), annex VI. Also issued in documents CCPR/C/21/Rev.1 and Rev.1/Add.1-5.

2/ Adopted by the Committee at its 1314th meeting (fiftieth session), on 6 April 1994.

3/ The number in parenthesis indicates the session at which the general comment was adopted.

4/ See Official Records of the General Assembly, Thirty-ninth Session, Supplement No. 40 (A/39/40), annex VI, general comment No. 12 (21) (art. 1), also issued in document CCPR/C/21/Rev.1; *ibid.*, Forty-fifth Session, Supplement No. 40 (A/45/40), vol. II, annex IX, sect. A, communication No. 167/1984 (Bernard Ominayak, Chief of the Lubicon Lake Band v. Canada), views adopted on 26 March 1990.

5/ *Ibid.*, Forty-third Session, Supplement No. 40 (A/43/40), annex VII, sect. G, communication No. 197/1985 (Kitok v. Sweden), views adopted on 27 July 1988.

6/ *Ibid.*, Forty-second Session, Supplement No. 40 (A/42/40), annex VIII, sect. D, communication No. 182/1984 (F. H. Zwaan-de Vries v. the Netherlands), views adopted on 9 April 1987; *ibid.*, sect. C, communication No. 180/1984 (L. G. Danning v. the Netherlands), views adopted on 9 April 1987.

7/ *Ibid.*, Forty-fifth Session, Supplement No. 40, (A/45/40), vol. II, annex X, sect. A, communication No. 220/1987 (T. K. v. France), decision of 8 November 1989; *ibid.*, sect. B, communication No. 222/1987 (M. K. v. France), decision of 8 November 1989.

8/ See notes 1 and 2 above, communication No. 167/1984 (Bernard Ominayak, Chief of the Lubicon Lake Band v. Canada), views adopted on 26 March 1990, and communication No. 197/1985 (Kitok v. Sweden), views adopted on 27 July 1988.

#### 4.2.3. Convention on the Rights of the Child

*Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989. Entry into force 2 September 1990.*<sup>15</sup>

**Article 17.** States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.

To this end, States Parties shall:

<sup>15</sup> <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

(d) Encourage the mass media to have particular regard to the **linguistic needs of the child** who belongs to a minority group or who is indigenous;

**Article 30.** In those States in which **ethnic, religious or linguistic minorities** or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

#### 4.2.4. 47/135. Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (A/RES/47/135)

*Adopted on the 92nd plenary meeting, 18 December 1992.*<sup>16</sup>

The General Assembly,

Reaffirming that one of the basic aims of the United Nations, as proclaimed in the Charter, is to promote and encourage respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language or religion,

Reaffirming faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small,

Desiring to promote the realization of the principles contained in the Charter, the Universal Declaration of Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and the Convention on the Rights of the Child, as well as other relevant international instruments that have been adopted at the universal or regional level and those concluded between individual States Members of the United Nations,

Inspired by the provisions of article 27 of the International Covenant on Civil and Political Rights concerning the rights of persons belonging to ethnic, religious or linguistic minorities,

Considering that the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities contribute to the political and social stability of States in which they live,

Emphasizing that the constant promotion and realization of the rights of persons belonging to national or ethnic, religious and linguistic minorities, as an integral part of the development of society as a whole and within a democratic framework based on the rule of

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<sup>16</sup> <http://www.un.org/documents/ga/res/47/a47r135.htm>

law, would contribute to the strengthening of friendship and cooperation among peoples and States,

Considering that the United Nations has an important role to play regarding the protection of minorities,

Bearing in mind the work done so far within the United Nations system, in particular by the Commission on Human Rights, the Subcommission on Prevention of Discrimination and Protection of Minorities and the bodies established pursuant to the International Covenants on Human Rights and other relevant international human rights instruments in promoting and protecting the rights of persons belonging to national or ethnic, religious and linguistic minorities,

Taking into account the important work which is done by intergovernmental and non-governmental organizations in protecting minorities and in promoting and protecting the rights of persons belonging to national or ethnic, religious and linguistic minorities,

Recognizing the need to ensure even more effective implementation of international human rights instruments with regard to the rights of persons belonging to national or ethnic, religious and linguistic minorities,

Proclaims this Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities:

#### Article 1.

1. States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity.
2. States shall adopt appropriate legislative and other measures to achieve those ends.

#### Article 2.

1. Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.
2. Persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life.
3. Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation.
4. Persons belonging to minorities have the right to establish and maintain their own associations.

5. Persons belonging to minorities have the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group and with persons belonging to other minorities, as well as contacts across frontiers with citizens of other States to whom they are related by national or ethnic, religious or linguistic ties.

Article 3.

1. Persons belonging to minorities may exercise their rights, including those set forth in the present Declaration, individually as well as in community with other members of their group, without any discrimination.
2. No disadvantage shall result for any person belonging to a minority as the consequence of the exercise or non-exercise of the rights set forth in the present Declaration.

Article 4.

1. States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.
2. States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards.
3. States should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.
4. States should, where appropriate, take measures in the field of education, in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole.
5. States should consider appropriate measures so that persons belonging to minorities may participate fully in the economic progress and development in their country.

Article 5.

1. National policies and programmes shall be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.
2. Programmes of cooperation and assistance among States should be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.

Article 6.

States should cooperate on questions relating to persons belonging to minorities, inter alia, exchanging information and experiences, in order to promote mutual understanding and

confidence.

Article 7.

States should cooperate in order to promote respect for the rights set forth in the present Declaration.

Article 8.

1. Nothing in the present Declaration shall prevent the fulfilment of international obligations of States in relation to persons belonging to minorities. In particular, States shall fulfil in good faith the obligations and commitments they have assumed under international treaties and agreements to which they are parties.

2. The exercise of the rights set forth in the present Declaration shall not prejudice the enjoyment by all persons of universally recognized human rights and fundamental freedoms.

3. Measures taken by States to ensure the effective enjoyment of the rights set forth in the present Declaration shall not *prima facie* be considered contrary to the principle of equality contained in the Universal Declaration of Human Rights.

4. Nothing in the present Declaration may be construed as permitting any activity contrary to the purposes and principles of the United Nations, including sovereign equality, territorial integrity and political independence of States.

Article 9.

The specialized agencies and other organizations of the United Nations system shall contribute to the full realization of the rights and principles set forth in the present Declaration, within their respective fields of competence.

#### 4.2.5. Francesco Capotorti's Minority Definition

<https://undocs.org/E/CN.4/Sub.2/384/Rev.1>

E/CN.4/SUB.2/384/REV.1 para 568

STUDY ON THE RIGHTS OF PERSONS BELONGING TO ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES / BY FRANCESCO CAPOTORTI, SPECIAL RAPPORTEUR OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

564. Application of the principles set forth in article 27 of the Covenant cannot, therefore, be made contingent upon a "universal" definition of the term "minority", and it would be clouding the issue to claim the contrary. Moreover, the question has so often been complicated by a desire on the part of some Governments to restrict or refine the definition that no minority is recognized as existing in their territory, and that consequently no international obligations arise for them in relation to the protection of minorities. If, however, the problem is examined without political prejudice and from a truly universal point of view, there can be no gainsaying that the essential elements of the concept of a minority are well known, and that the only

point at issue as far as the definition is concerned is whether an indisputable objective "core" can be widened or restricted by means of a few controversial considerations.

565. In discussions on the definition of the term "minorities" two sorts of criteria have in fact been proposed: criteria described as objective and a criterion described as subjective.

566. The first of the criteria described as objective to which general reference is made is the existence, within a State's population, of distinct groups possessing stable ethnic, religious or linguistic characteristics that differ sharply from those of the rest of the population. The inclusion of such a component in the definition of the term "minority" is not controversial; as the Permanent Court of International Justice pointed out, the existence of such groups is a question of fact. It is therefore essential that it should be regarded as a basic element in any definition. A second objective criterion concerns the numerical size of such groups: they must in principle be numerically inferior to the rest of the population. But two remarks are called for in this connection. In the first place, it must be emphasized that in countries in which ethnic, religious or linguistic groups of roughly equal numerical size coexist, article 27 is applicable to them all. In the second place, it seems sensible to take account of the difficulties that would arise from the application of article 27 to groups so numerically small that it would be a disproportionate burden upon the resources of the State to grant them special status. Here, a question of fact arises that can only be solved upon consideration of each particular case in the light of the following notion: that States should not be required to adopt special measures of protection beyond a reasonable proportionality between the effort involved and the benefit to be derived from it. A third objective criterion consists in the non-dominant position of the groups in question in relation to the rest of the population: dominant minority groups do not need to be protected; on the contrary they violate, sometimes very seriously, the principle of respect for the will of the majority which is a corollary of the right of peoples to self-determination. The last objective criterion concerns the juridical status of members of the above-mentioned groups in relation to the State of residence. It is generally accepted that they must be nationals of the State.

567. As to the subjective criterion, it has generally been defined as a will on the part of the members of the groups in question to preserve their own characteristics. If the existence of such a will had to be formally established before applying article 27, there would be reason to fear that any State wishing to evade the rule might justify its refusal by claiming that the groups themselves did not intend to preserve their individuality. Apart from this point, however, it must be said that the will in question generally emerges from the fact that a given group has kept its distinctive characteristics over a period of time. Once the existence of a group or particular community having its own identity (ethnic, religious or linguistic) in relation to the population as a whole is established, this identity implies solidarity between the members of the group, and consequently a common will on their part to contribute to the preservation of their distinctive characteristics. Bearing these observations in mind, it can be said that the subjective factor is implicit in the basic objective element, or at all events in the behaviour of the members of the group. It is possible to bring these considerations together in a tentative definition of the term "minority".

568. The Special Rapporteur wishes to emphasize that the definition he proposes is limited in its objective. It is drawn up solely with the application of article 27 of the Covenant in mind.

In that precise context, the term "minority" may be taken to refer to: A group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members—being nationals of the State—possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language.

#### 4.2.6. United Nations Declaration on the Rights of Indigenous Peoples (A/RES/61/295)

*The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted by the General Assembly on Thursday, 13 September 2007.<sup>17</sup>*

##### Article 3

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

##### Article 4

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

##### Article 13

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.

(...)

##### Article 14

1. Indigenous peoples have the right to establish and control their *educational systems* and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

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<sup>17</sup>

<https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html> See text: [https://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](https://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf)

## Article 16

1. Indigenous peoples have the right to establish their own *media* in their own languages and to have access to all forms of non-indigenous media without discrimination.

(...)

## 4.3. Council of Europe

### 4.3.1 Overview of the monitoring mechanisms in the Council of Europe

#### [CM/Inf\(2008\)37-rev](#)

- A. Treaty based control mechanisms
- B. Resolution based control mechanism
- C. Monitoring by the organs of the Council of Europe

Evaluation of the Council of Europe's Monitoring Mechanisms – Follow-up

[21 February 2024](#)

[5 April 2024](#)

### 4.3.2 Framework Convention for the Protection of National Minorities (ETS No. 157)

[Official text \(EN\)](#) [\(Text HU\)](#)

[Signatures and ratifications](#)  
[Reservations and declarations](#)  
[Explanatory Report](#)

### 4.3.3. European Charter for Regional or Minority Languages

[Official Text \(EN\)](#) [\(Text HU\)](#)

[Signatures and ratifications](#)  
[Reservations and declarations](#)