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The Legal Protection of National and Linguistic Minorities in the Region of Friuli Venezia Giulia: A Comparison of the Three Regional Laws for the “Slovene Linguistic Minority”, for the “Friulian Language” and for the “German-Speaking Minorities”

This article presents a comparison between three regional laws, namely the contents of Law 26/2007 for the protection of the “Slovene linguistic minority”, Law 29/2007 for the protection of the “Friulian language” and Law 20/2009 for the protection of the “German-speaking minorities” adopted by the Friuli Venezia Giulia Region in Italy. The analysis is based on the framework of diversity management theories and the related functions of minority legal protection and decentralization models. The author concludes that the system of minority protection in FVG is asymmetrical, as the regional legislation has a similar structure but is separate for each group. The differences regard also the protection of minority languages and their dialects as well as the legal sources and subjects.

Keywords: diversity management, Friulian language, German-speaking communities, minority rights, national minorities, regional languages, Slovene national minority.

Pravno varstvo narodnih in jezikovnih manjšin v Deželi Furlaniji Julijski krajini: primerjava treh deželnih zakonov za “slovensko jezikovno manjšino”, “furlanski jezik” in “nemško govoreče manjšine”

Prispevek predstavlja primerjavo med zakoni Dežele Furlanije Julijske krajine v Italiji o varstvu “slovenske jezikovne manjšine” št. 26/2007, “furlanskega jezika” št. 29/2007 in “nemško govoreče manjšine” št. 20/2009. Avtorica umešča analizo v teorije upravljanja različnosti in funkcij pravnega varstva manjšin in modelov decentralizacije znotraj le-teh. V zaključkih ugotavlja, da je sistem manjšinskega varstva v FJK asimetričen, ker se je razvila sicer po strukturi podobna deželna zakonodaja, a ločena za posamezno manjšino. Razlike se obenem pojavljajo tako pri varstvu manjšinskih jezikov in njihovih lokalnih govoric kakor tudi na ravni pravnih virov in akterjev.

Ključne besede: upravljanje različnosti, furlanski jezik, nemško govoreče skupnosti, manjšinske pravice, narodne manjšine, regionalni jeziki, slovenska narodna manjšina.

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1. Introduction

Between 2007 and 2009, the Italian Region of Friuli Venezia Giulia (FVG) adopted three important regional laws regulating the protection of the “Slovene linguistic minority”, the “Friulian language” and the “German-speaking minorities” (the disparity in the terminology follows the wording of the titles of the laws themselves). Compared to regional legislation of the 20th century, this more recent legislation presents an important milestone. FVG now plays the role of the enactor of policies aiming at the preservation and development of its historical minorities. It thus assumes an active role in managing ethnic diversity in the field of national and linguistic minorities in the region. In part, these policies are already in the implementation phase and also stipulate certain forms of funding. Some of these provisions are of a planning nature and as such delineate the strategies for future development.

The policies of diversity management of decentralized state administrations such as regions are crucial to national and linguistic minorities, as they directly affect the processes of their conservation and development. Without the support of the state and its local administrations, the interests determined by a minority community on the basis of its organizational structure would be difficult to attain or even unattainable. In fact, local administrations are those legal entities that enable the implementation of minority rights in everyday life. In Italy, their role in this field intensified following the introduction of Norms Concerning the Protection of Historical Linguistic Minorities in Italy (Law 482/1999) and following the reforms enacted in the last twenty years that have allowed for a decentralization of functions and responsibilities in the field of the protection of national and linguistic minorities as well.

2. Objective and Methodology

The central research question of this paper comprises a comparison of the contents of the three regional laws regulating the legal protection of the Slovene, Friulian and German-speaking communities in the FVG region. The analysis draws upon contemporary theories on diversity management at the socio-political level and on the functions of legal protection of minorities and their decentralization models. The comparison of the three regional laws is based on the texts of Regional Norms Concerning the Protection of Slovene Linguistic Minority (Law 26/2007), Regional Norms Concerning the Protection, Valorisation and Promotion of Friulian Language (Law 29/2007) and Regional Norms Concerning the Protection and Promotion of German Speaking-Minorities of Region Friuli Venezia Giulia (Law 20/2009). In particular, it focuses on the aspects of the recognition of these three communities, on the public use of minority or regional languages and on the education provided in these languages. These aspects were explored within the research project entitled Managing

Ethno-Linguistic Diversity: The Case of Friuli Venezia Giulia – a research project leading to a doctoral thesis pursued at the Faculty of Social Sciences of the University of Ljubljana, conducted by the author at SLORI – the Slovene Research Institute in Trieste.

In the FVG region, in addition to the aforementioned minorities, there also exist various newly immigrated communities and other historical communities that were established there during economic migrations in the period of the Austro-Hungarian Empire, e.g., the Serbian, Croatian, and Jewish communities. They do not have specific socio-political objectives comparable to those of national and linguistic minorities. Nor do they fall within the scope of the national and regional legislation on the protection of historical linguistic and ethnic minorities and for this reason they are not treated in this paper.

3. The Legal Protection of National and Linguistic Minorities and Decentralization as Specific Fields of Study within Diversity Management Theories

At the socio-political level, the concept of diversity management concerns the methods and techniques developed and applied by countries and their socio-political institutions in order to yield better socio-political results at the level of social cohesion, peace and overall development. In this context, national, ethnic, linguistic and cultural aspects of the diversity of social groups are considered to be a socio-political added value or function of the social, political and economic development of a country or a community. This concept represents a transition from the “multicultural jargon” made up of metaphors, optimistic stereotypes and slogans (e.g., valorization of differences, enrichment of cultures, opportunity to meet, merging horizons, diversity in harmony) (Piccone Stella 2003, 19), which often seem like statements of principles and desires, towards specific policies for the management of a modern multicultural society. Therefore, the concept of diversity management marks a leap from ideological multiculturalism to structural-functional models of the actual management of the interests of different social groups by the state and its institutions.

Within a part of the discipline studying minority issues (Palermo & Woelk 2003/2004; Schneckener 2004; Wolff 2004; Žagar 2007, 2008; Malloy 2008; Marko 2008), a theoretical framework on diversity management has been conceptualised. According to Žagar (2008, 321–322) diversity management is a broad framework and concept which includes strategies, policies, programmes and activities for the regulation and management of pluralities, diversities and asymmetries in contemporary societies. It devotes special attention to ethnic and cultural pluralism and relations, protection of minorities, prevention, management and/or resolution of social crises and conflicts (especially of those that are perceived and interpreted as ethnic conflicts).

The concept of diversity management is a complex notion, which should be defined on the basis of the object and the context of the study. This paper deals with an analysis of a specific example of ethnic diversity management that covers nationally, culturally and linguistically mixed or multicultural and multi-national environments consisting of several historically present national and linguistic groups. These groups recognize each other as different on the basis of their history, language and culture. They each have their separate structure of organizations and institutions aiming to maintain their respective ethnic and linguistic communities. Thus they enjoy cultural autonomy and, within more developed models of ethnic diversity management, they may also enjoy a certain political autonomy. In terms of power, according to Boileau et al. (1992, 12, 36–37), these groups can be defined as non-dominant minorities (possibly sharing the same territory), who live in an environment that is usually governed by the dominant ethnic majority. Consequently, the broader concept of diversity management can be defined as the management of relationships between dominant and non-dominant social groups which possess varying degrees of socio-political power and therefore also different possibilities of articulating and pursuing their collective interests in the processes of socio-political decision-making. There are therefore certain power relations between national majorities and national minorities that enable national and linguistic minorities to express their presence in a certain settlement area through the public use of a minority or regional language (e.g. through visible bilingualism on public signs and signposts, through the use of language in schools, public administration, media). Minority communities may pursue their interests through political participation of their representatives in decision-making and in determining development guidelines for their settlement area. As stated by Žagar (2007, 24), social cohesion weakens without appropriate tools which provide for democratic expression, reconciliation and coordination of all the interests expressed – thus also those of national and other ethnic minorities – as well as for the formulation of common interests. This can lead to a possible crisis and escalation of conflicts, most frequently when distinct communities and individuals feel exploited and/or discriminated against.

Various authors (Palermo & Woelk 2003/2004; Schneckener 2004; Malloy 2005; Marko 2008) analyse the legal protection of national and linguistic minorities within the framework of theories on diversity management. The legal framework of minority protection is the basis for diversity management and can, as such, be realized through special minority rights “guaranteed by international law (legally binding conventions, treaties, political declarations etc.), by the constitution, by a particular law on minority protection and various single laws (i.e. laws on language, education, media etc.)” (Schneckener 2004, 23). Palermo and Woelk (2003/2004) stress that in the model of diversity management, minority rights are not treated as a privilege, but rather as differentiated rules that are based on cultural diversity and that enable minorities to engage in the same activities as the majority. The authors emphasise that this “law of diversity” is based on three

elements: asymmetry of its application and its individual instruments, whereby the differentiation of the legal position of social groups becomes the norm; pluralism of legal sources and entities, which creates an obligation of mutual recognition, reciprocal consideration of each group's positions and interests, as well as mutual acceptance; and negotiation of its content in a practically contractual framework that transcends the pre-defined concepts of national majority and minority.

Schneckener (2004) categorizes the legal protection of minorities as one in the set of four strategies of recognition of ethnic or national groups within a country. In addition to the latter, he also defines institutionalized power-sharing systems between ethnic or national groups within the country, models of territorial autonomy and federalism, as well as bilateral and multilateral international régimes. However, legal systems for minority protection differ from each other as they take into consideration the social and political situation of the particular national or linguistic minority. Nevertheless, the author defines three categories of minority rights: equality rights, cultural rights, and the right to self-government and representation. Equality rights guarantee that minority members are treated equally to other members of society by state institutions and other socio-political entities without having to deny their group affiliation. Cultural rights allow them to express themselves freely and to preserve and develop their cultural and linguistic heritage. The right to self-government and self-representation acts as a negative or positive protection of the minority group in relation to the central government and the dominant majority. Negative protection protects the national minority against those governmental policies that might endanger the existence of the minority. Positive protection concerns the possibility of requesting those legal and political measures that enable the national minority to preserve its distinctiveness.

The legal instruments of minority protection occur in various forms of individual and collective rights that lie on the continuum between two ideal types, namely the basic human rights at the one end and equal representation and participation of ethnic groups and the political process at the other (Marko 2008, 271–273). This legal system allows for autonomy and integration, which are, according to the author, acceptable models of diversity management as they represent “functional prerequisites for the maintenance of different ethnic groups as well as a culturally pluralist social and political system” (Marko 2008, 272–273). The author further assesses that such models represent the best possible way of managing ethnic conflicts and societies with severe divisions, when they occur. At the same time, unless the politics of integration and autonomy are balanced, it may amount to the assimilation or ghettoization of ethnic groups. In this model, autonomy is seen by the author as a combination of three types: individual, cultural and territorial. Integration, on the other hand, is carried out through the representation and participation of minority members in the decision-making processes.

The problems of the decentralization of government systems and its impact upon the national and linguistic minorities in the field of ethnic diversity management has been dealt with by many authors (Lapidoth 1997 in Benedikter 2007; Žagar 1997; Piergigli 2001; Keating 2001, 2007; O’Leary 2003; Pan & Pfeili 2003; Schneckener 2004; Wolff 2004; Benedikter 2007, 2008; Marko 2008). Decentralization refers to the transfer of functions and powers from the central government “downwards” to the level of constitutional, legal and political systems, and this then allows local authorities such as regions, provinces, municipalities or other local political-administrative units to enjoy various forms of administrative and political autonomy (Žagar 1997, 12). Occurring in the form of federalism, regionalism and local self-government, it allows for the expression of cultural pluralism and supports the preservation and protection of historical traditions of the national community’s various components on a territorial basis, including the specificities of historical linguistic minorities (Piergigli 2001, 497). It represents the ways in which different social identities are allowed collective and free institutional expression (O’Leary 2003, 60).

Decentralization may directly affect the protection of ethnic and national minorities in cases where the typology of decentralization coincides with territorial autonomy and with the forms of the national minority’s self-government, such as, for example, in Catalonia, Wales or South Tyrol. Decentralization thus occurs as a political-administrative system in which multiculturalism is the ideology in the choice of state policies towards its ethnic and national minorities. Such systems are aimed at preserving ethnic and linguistic diversity, not merely as a unique feature of the social fabric, but as recognized communities that in their participation in political processes and in the functioning of public administration are to the same as the subjects identifying themselves with the national majority. These cases therefore indicate a connection between the different forms of self-government and the political-administrative autonomy of regions, where the majority of the population belongs to a national or ethnic minority or is composed of speakers of the regional language. Decentralization may indirectly affect the level of the protection of national minorities in cases where they enjoy a cultural but not a territorial autonomy if they are not the majority population in a specific region or province, or if their members are dispersed. Such is the case with the national and linguistic minorities in FVG that are the focus of the present paper.

4. National and Linguistic Minorities in Friuli Venezia Giulia

The FVG region covers the tri-border area of Italy, Slovenia and Austria. Here, one can discern the presence of three minorities: the Slovene, the Friulian and the German-speaking minority groups. These three minorities can be distinguished

on the basis of their status, form, characteristics, structure, history and expression of collective interests. Their common denominator is autochthony, i.e., a historical presence in the area where they live today. In the Italian Constitution and legislation as well as in the legislation of the FVG Region, all three communities are identified as linguistic minorities, irrespective of their socio-political and socio-linguistic situation. The use of this term is controversial, as in this case the term is used by the majority nation in order to diminish the political significance of the presence of the three minorities. Consequently, the problem of minority rights is reduced to merely a problem of language, regardless of the fact that the nature of the minority is usually multifaceted and also includes the problem of political and wider social engagement. It should be noted, however, that the term "historical linguistic minorities" has become common in Italian legislation for practical reasons as well. Such a definition is the minimum possible common denominator of all legally protected types of minorities in the Italian peninsula.¹

4.1 The Friulian Linguistic Community

The Friulian-speaking area covers 177 municipalities in the provinces of Gorizia (*Gurize*), Udine (*Udin*) and Pordenone (*Pordenon*).² The main cohesive element of the Friulian-speaking community is the Friulian language with its various dialects. It is an example of a European regional language that is currently experiencing a period of revitalization owing mainly to its introduction into the school system and public administration.

Friulian is a Romance language that has been influenced by various languages with which it came into contact throughout history: by pre-Romance languages, such as Gaelic and Venetic, by Germanic languages such as Gothic, Langobardic and German, and by Slavic languages (Vicario 2006). Its development is associated with the political history of Friuli. Its existence has been conditioned by the fact that in the period of the Patriarchate of Aquileia between the eleventh and fifteenth centuries Friulian continued to be spoken among the common people, while the ruling elite spoke mostly German (Strassoldo 2006). The transition under the rule of the Venetian Republic in 1420 marked the beginning of the period of assimilation. The underlying causes were related to the reduction of the cultural and administrative-political autonomy of Friuli, the supremacy of the Venetian dialect over the Friulian language and the community's incorporation into the Italian cultural context (De Clara 1998; Janežič 2004). In 1866, the area of present-day Friuli became part of Italy.

Historical sources testify to the fact that the Friulian language has existed in written form for at least 1,000 years (Vicario 2006). In the nineteenth century, the people of Friuli, like other European nations, developed their own literature and language as the foundation of their regional identity. Modern Friulian comprises four basic dialects and the standard language with its official script. The latter has

been developed on the basis of the literary tradition of the nineteenth and the twentieth centuries, which was based on the dialect spoken in central Friuli.

The number of people fluent in Friulian has been estimated at approximately 500,000 speakers (Janežič 2004; Vicario 2006). If we take into account people's cultural and territorial sense of belonging to the Friulian community, these estimates amount to 850,000 people, a figure that represents 71 per cent of the regional population (according to the 1991 ISTAT census – Janežič 2004, 224). To these, we may also add a few thousand emigrants and their descendants around the world who still speak Friulian in their homes.³ Friulian is also used in different communicative situations outside the traditional family language environment, e.g., in schools, universities, cultural activities, public administration, media, as well as in work environments (Picco 2006).

There are numerous cultural associations active in the field of the valorization, preservation and development of the Friulian language and culture that are scattered across the entire territory (Cisilino 2006; Janežič 2004). They are active mainly in the field of theatre, music, film and literature. Media available in the Friulian language include various print and online media, as well as a private radio station. To a somewhat lesser extent, radio programs in this language are also present in the regional headquarters of Italy's national public broadcasting company RAI for FVG. Moreover, Friulian can also be heard in various private local radio and television stations.

4.2 German-Speaking Communities

German-speaking communities are linguistic minorities too. While these communities relate partly to German as their language of reference, some of them also continue to use their local dialects of German origin. In this case, we can therefore speak of the process of revitalization of archaic dialects as elements of a particularly relevant regional cultural and linguistic heritage. German-speaking minorities live in a total of five municipalities in three areas within the province of Udine, namely in Sauris (*Zahre*) and Timau (*Tischlbong*) in Carnia and in Val Canale (*Kanaltal*) near the Austrian border.

In regional legislation, the definition of German-speaking minorities occurs in the plural as it conveys a plurality of language uses and identities. The regional German-speaking communities have not developed a common collective identity as they did not participate jointly in the process of the German nation-building process and in the creation of the Austrian state. This was the case with the German population living near the Austrian border, which (similarly to the Slovenes) acquired the status of a border minority due to the placement of state borders in the twentieth century. Following the plebiscite of 1939, the majority of this population then moved to the Austrian side. In terms of linguistic and identity features, the two remaining German-speaking communities living in the

municipality of Sauris and in the village of Timau are more similar to the Greek-, Albanian- and Croatian-speaking islands of southern Italy. The variant of German spoken by these communities has preserved the archaic features from the period of their original settlement in this area.

The first German colonists began settling in Val Canale in the eleventh century, when the Church of Bamberg, which had its headquarters in the north-eastern corner of Bavaria, took control of this area (Goldschmidt 1998; Perini 1998). In 1759, the land was bought by the Habsburg Monarchy, which ruled there until 1919 when Val Canale was annexed to Italy. The history of the towns of Sauris and Timau is closely associated with the history of Friuli (Protto 2004). From the first German settlers, who probably settled in this area in the thirteenth century, the history of the territory was thus first associated with the rule of the Patriarchs of Aquileia, then, from 1420, with transition under the rule of the Venetian Republic and at the end of the eighteenth century with annexation to the Habsburg Monarchy. In 1866, the territory of both towns was incorporated into the Kingdom of Italy.

Val Canale is a highly multilingual area where one can even find cases of quadrilinguality (in German, Slovene, Friulian and Italian) (Kravina 2004; Janežič 2004). Today, German is spoken by about 15 per cent to 20 per cent of the population in the three municipalities of Tarvisio (*Tarvis*), Malborghetto-Valbruna (*Malborgeth*) and Pontebba (*Pontafel*). The German dialect spoken in this territory belongs to the family of Carinthian dialects and was also traditionally influenced by standard German. In the 1990s, German became part of the regular curriculum of primary schools in a variety of formats that provided for multilingual instruction together with Slovene and Friulian.

The respective dialects spoken in the towns of Sauris and Timau belong to the language group of Southern Bavarian German dialects (Protto 2004; Unfer 2004). According to the latest estimates, German dialect speakers in these places account for about 70 per cent of the population. The percentages vary greatly among the members of younger generations, who have a mainly passive command of these two dialects, and older people who still speak them. The dialects are used primarily within the family circle and in the workplace, in shops, in church and in public places. Since the early 1980s, the towns of Sauris and Timau have been known to incorporate their local German dialects into kindergartens and primary schools in addition to Friulian and Italian. Val Canale and the towns of Sauris and Timau have various cultural groups, associations and parishes which are actively engaged in the valorization of the local culture and language and which occasionally publish various publications in German and in the local German dialects.

4.3 Slovene National Community

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The Slovene national community is a border-area national minority in the traditional sense of the term. Its traditional settlement area in FVG covers a total of 39 municipalities (Bogatec 2004). From a formal aspect, according to the list of municipalities drawn up on the basis of the Norms Concerning the Protection of the Slovene Linguistic Minority in Region Friuli Venezia Giulia (Law 38/2001), the presence of this community is documented in a more narrow territory of 32 municipalities in the provinces of Gorizia (*Gorica*), Trieste (*Trst*) and Udine (*Videm* or *Viden*) in the areas of Benecia (*Benečija*), Resia (*Rezija*) and Val Canale (*Kanalska dolina*).⁴

The history of Slovenes now living in Italy is closely tied to the history of the entire Slovene nation and to the history of the Slavic tribes who had settled in this area in the sixth century. The beginnings of a national formation can be traced back to the sixteenth century, to the period of the Protestant Reformation and Counter-Reformation which marked the consolidation of the Slovene language (Sussi 1998). Slovene national identity in the modern linguistic, social and political sense began developing, for the most part, in the nineteenth century during the period of European movements for the establishment of modern nations and nation states. At that time, the first Slovene reading clubs, societies, and political organizations were formed within the Austrian Empire in Trieste and Gorizia. For a short period of time between 1797 and 1866, the regions of Benecia and Resia were joined together with the rest of the Slovene settlement territory under the Habsburg Monarchy, but after that they were annexed to Italy.

The Slovene settlement area of Trieste, Gorizia and Val Canale was severely affected by the dissolution of the Austro-Hungarian Empire after World War I, which denoted a transition to Italian rule. This shift was followed by a period of forced assimilation which reached its peak during the Fascist period. What followed were various forms of violence launched against institutions, associations and representatives of the Slovene minority and other citizens of Slovene nationality (Stranj 1992; Sussi 1998). As a result, Slovenes had already begun developing forms of an illegal anti-Fascist resistance movement by the mid-1920s. From 1941 onwards, this movement found its outlet in the Liberation Front of the Slovene Nation that joined the Yugoslav National Liberation Army, an anti-Nazi and anti-Fascist resistance movement. During the post-war period, the Slovene settlement area bordering Italy was divided into several political units. Benecia and Val Canale were immediately re-annexed to Italy. The area of Trieste, Gorizia and Istria, on the other hand, was divided into two parts: Zone A comprising Trieste and Gorizia came under Anglo-American administration and Zone B covering Istria came under Yugoslavia. With the Paris Peace Treaty of 1947, Gorizia was annexed to Italy and thus separated from its hinterland. As for Trieste, provisions were made for the establishment of the Free Territory of

Trieste, which never actually came into effect. Trieste in Zone A and part of Istria in Zone B remained divided in this way until 1954, when under the London Memorandum an agreement was reached between the two parties, namely that Zone A with Trieste would remain under Italy, and Zone B with Istria would remain under Yugoslavia. This delineation was confirmed by the 1975 Treaty of Osimo concluded between Italy and Yugoslavia.

Members of the Slovene national minority in Italy speak both standard Slovene, which is the state and official language in the Republic of Slovenia, as well as its various local dialects or variants (Sussi 1998; Janežič 2004). Moreover, they are all fluent in standard Italian and/or its local dialects. In the province of Udine there are also examples of individuals who only speak a local Slovene dialect, but due to the lack of educational opportunity in the Slovene language, are not familiar with standard Slovene. They have since been given this opportunity through the establishment of a bilingual school centre in San Pietro al Natisone (*Špeter*) which first operated as a private school, but was subsequently incorporated into the state school system.

Unfortunately, there are no current estimates regarding the number of members of the Slovene minority in Italy in the twenty-first century. According to the most recent population estimate from 2002, Italy is home to 95,000 members of the Slovene minority, a total of 100,000 speakers of Slovene and a total of 183,000 people who understand the language (Bogatec 2004). There are considerable differences between the population estimates from the 1970s and the 1990s, according to which members of the Slovene minority number between 46,882 and 96,000 (Sussi 1998).

Slovenes in the provinces of Trieste, Gorizia and Udine have established a thriving network of activities, institutions and associations which focus mainly on cultural and sports activities in the framework of professional institutions or in grassroots associations, parishes and other centres (Sussi 1998; Janežič 2004). A system of Slovene-language state schools has been set up in the provinces of Trieste and Gorizia and a bilingual school centre in S. Pietro al Natisone in the province of Udine. Media communication in Slovene takes place at the level of public radio and television within the regional headquarters of Italy's national public broadcasting company RAI and through various forms of print and online media. As opposed to Friulian and German-speaking communities, the Slovene national community also has its political representatives elected to various administrative and political bodies, such as the Italian Senate, the Regional Council of Friuli-Venezia Giulia and other provincial and municipal bodies. These representatives are politically active either in Italian majority parties (especially in those of the centre-left, and to a lesser extent in the centre-right parties) or in the Slovene ethnic party.

5. Comparison of the Legislation of the Region Friuli Venezia Giulia for the Slovene, Friulian and German-Speaking Communities

Like the Regions of Valle d'Aosta, Trentino Alto Adige, Sicily and Sardinia, the Autonomous Region⁵ of Friuli Venezia Giulia⁶ enjoys a special autonomy (it is a so-called region with a special statute), which in Italy differs from the regular autonomy⁷ granted to the remaining fifteen regions (regions with an ordinary statute) (Brandt 1998, 141). The regions with special autonomy are distinguished from ordinary regions by different processes of approval of statutes and regulations of their operation, by the scope and quality of their powers and by the different organization of their financial relationship with the state (Bartole & Mastragostino 1997, 27).

Article 3 of the Special Statute of the Autonomous Region of FVG (Constitutional law 1/1963) acknowledges a general right to equality for all ethnic and linguistic elements in the region, but does not mention any explicit guarantees for the protection of the Slovene, Friulian or German national communities as constitutive elements of the regional society and administration. Nor does it envisage any specific minority legislation or exclusive powers in the field of minority protection, as is the case in the Autonomous Regions of Trento and Bolzano and Valle d'Aosta (Palici di Suni Prat 1998, 158; 2000, 102; 2002, 54). It was not until the beginning of the 21st century that certain significant changes occurred in this field. The Amendment of Section 5 of the Constitution (Constitutional Law 3/2001) granted new powers to the regions in the fields vital to the protection of minority languages, such as education (Cisilino 2004, 106). Moreover, on the basis of the provisions stipulated by Article 18 of Law 482/1999 for the protection of historical linguistic minorities, the Autonomous Region of FVG was granted the freedom to adopt additional forms of interventions in the field of linguistic minorities that were included in the rules for the implementation of its special statute. The contents of Article 3 of the Statute were thus converted into an actual competence based on Legislative Decree 223/2002 regarding the Rules for the Implementation of the Special Statute of the Autonomous Region of FVG, which envisaged a transfer of functions in the field of safeguarding the language and culture of historical linguistic minorities in the region. Over the following years, the Autonomous Region of FVG began developing its own legislation for the three linguistic minorities, thus assuming the role of an institutional policy-making body. This provided the legal basis for the adoption of Regional Law 26/2007 for the protection of the Slovene national minority, Regional Law 29/2007 for the protection of the Friulian language, and Regional Law 20/2009 for the protection of German-speaking minorities.

The more recent legislation of the FVG Region on the protection of minorities falls within the scope of Italian national legislation in this field and is exercised

at the regional level. The principle of the protection of national and linguistic minorities forms part of the Constitution of the Italian Republic. In it, Article 6 stipulates that the Republic shall protect its linguistic minorities by means of special provisions. Law 482/1999 for the protection of historical linguistic minorities, which forms an organic basis for the legal protection of historical linguistic minorities in Italy, represents a turning point at the level of state legislation. Its provisions bridge the former distinction between border-area minorities that are legally protected by specific statutes of countries and by international agreements, and other minorities of regional languages and language islands and archipelagos which were previously largely without legal protection (Palici di Suni Prat 2002, 106; 2006, 639; Cisilino 2004, 105). As stipulated in Article 2 and according to Article 6 of the Constitution, this law protects the language and culture of the "Albanian, Catalan, German, Greek, Slovene and Croatian population as well as of the citizens who speak French, Franco-Provençal, Friuli, Ladin, Occitan and Sardinian." The law regulates mainly the following areas of use of minority languages: education, public administration, public broadcasting, public, first and last names, toponymy, etc.

The Slovene national community acquired its State Protection Law 38 in 2001 when the state Framework Law 482/1999 for the protection of historical linguistic minorities, to which Article 1 of Law 38/2001 also refers, had already been in effect. The two Laws therefore share certain similarities in structure, content and certain procedures. Referring to the forms of minority protection in the post-war period, Law 38/2001 for the protection of the Slovene linguistic minority highlights the unique position of the this minority in Italy as compared to other historical linguistic minorities recognized by Law 482/1999.⁸ It recognises the Slovene national minority living in the provinces of Trieste, Gorizia and Udine as a single entity, whose members enjoy equal rights regardless of their province of residence. The Law covers various aspects of minority rights: the right to use one's name and surname in the mother tongue; to use spoken and written Slovene in interactions with public institutions; to use Slovene in elected assemblies and collegiate bodies; to a visual use of bilingualism and to bilingual topographical indications; to education in the minority language; to the restitution of property that had been confiscated during the Fascist period to Slovene organizations; to the protection of historic and artistic heritage also at the level of public planning, land use, economic, social and urban planning; to trade unions and trade organizations; to criminal proceedings related to expressions of intolerance and violence committed against members of the Slovene minority, etc.

5.1 Recognition of National and Linguistic Minorities

In 2007, the FVG Region adopted Law 26 on the protection of the Slovene minority, which represents an innovation⁹ when compared to previous regional

laws. As stated in its Article 1, the Law positions the protection of the Slovene national minority in the framework of the region's policy strategies aimed at protecting and developing the cultural and linguistic diversity within its territory and its national minorities—Slovene, Friulian and German. In that same year, Law 26/2007 for the protection of the Slovene national minority was followed by Law 29/2007 for the protection of the Friulian language, which outlines the language policy on the protection of the Friulian language. This law represents an expanded and updated version of the Regional Norms Concerning the Protection and the Promotion of the Friulian language and Culture (Law 15/1996), but does not replace it entirely. Law 29/2007 for the protection of the Friulian language does retain the principles expressed in the preceding regional law, as well as the definition of the Friulian-speaking area and a few other provisions. However, in comparison with Law 15/1996 for the protection of the Friulian language, Law 29 is of an executive type and significantly expands the preceding law, especially in the fields of education and language policy. In 2009, the FVG Region also adopted Law 20, which regulates the protection of German-speaking minorities. This represents another step towards the revision of the regional policy on the valorization of the linguistic and cultural features of FVG.

In the case of all three laws, the FVG Region regards its minorities as part of its historical, cultural and human heritage. The contents of the three laws express the legal principles of the protection of minorities as stipulated in Article 6 of the Italian Constitution and Article 3 of the Special Statute of the Autonomous Region of FVG, which recognizes the cultural and linguistic diversity of the region. At the same time they also refer to the most important international documents in the field of minority protection and the protection of human rights (the United Nations Universal Declaration on Human Rights, the European Convention on Human Rights, the Framework Convention for the Protection of National Minorities, the CEI Instrument for the Protection of Minority Rights, the OSCE Recommendations Regarding the Linguistic Rights adopted by Italy, and the European Charter for Regional or Minority Languages). The regional laws also take into account the Law 482/1999 for the protection of historical linguistic minorities. It is clearly stated that the Autonomous Region of FVG shall be responsible for the protection of minorities on the basis of Legislative Decree 223/2002 or Rules for the Implementation of the Special Statute of the Autonomous Region of FVG regarding the transfer of functions related to the protection of language and culture of the historical linguistic minorities in the region from the national to the regional level. Law 26/2007 for the protection of the Slovene linguistic minority also refers to Law 38/2001 for the protection of the Slovene linguistic minority. The latter contains Article 5 on the protection of the German-speaking community in Val Canale and is therefore also referred to by Regional Law 20/2009 for the protection of German-speaking minorities. Law 29/2007 for the protection of the Friulian language refers to Law 15/1996, i.e., the first regional law for the protection of the Friulian language.

In general, the policies of the FVG Region related to the protection of its national minorities are oriented towards promoting the multicultural and multilingual situation of the regional and the Slovene-Italian and Austrian-Italian border areas. The FVG Region's vision for safeguarding individual national communities is thus included and integrated into the development of other regional national minorities and of interculturality as a feature and a value of the regional territory. It is based on cooperation between minority and majority operators and national minorities both at regional as well as at cross-border and international levels. To this end, it provides the possibility for new legal entities to be established. In the context of the laws for the protection of Slovene and German-speaking minorities, the FVG Region itself is an institutional entity which fosters cross-border and international relations for the benefit of these minorities. The FVG Region thus assumes an institutional role of supporting its minorities at the level of inter-minority cooperation.

The legislation of the FVG Region on the protection of its three minorities recognizes various institutions and organizations as essential for the preservation and development of individual minority communities. It therefore regards the national minorities as subjects that enjoy cultural autonomy. All three minorities differ with regard to the structure of their organization, and this is reflected in the fact that the procedures for the recognition of these institutions within individual regional laws differ as well. Their legal recognition is a prerequisite for obtaining funding. This is similar to the procedures stipulated by the preceding Regional Law 46/1991 for the Slovene national community. The institutions that have achieved recognition act as representatives of national and linguistic minorities and as interlocutors in relations with the FVG Region. Currently, their topics of discussion focus mainly on financing. In most cases, they do not concern the participation of the FVG Region in outlining the development policies for each minority community. The FVG Region plays an active role only in developing the language policies for the Friulian language, as that is the responsibility of ARLeF (*Agenzie regional pe lenghe furlane* - Regional Agency for the Friulian Language), which acts under its jurisdiction.

5.2 Public Use of Minority and Regional Languages

The three laws of the Autonomous Region of FVG governing national or ethnic and linguistic minorities do not explicitly grant official language status to the protected minority languages (Slovene, German and Friulian). However, neither do they explicitly state that the official language is Italian, as is the case in State Law 482/1999 for the protection of historical linguistic minorities. On account of the provisions allowing for the bilingual and multilingual operation of public administrations and a visible bilingualism or multilingualism in these languages, these minority languages have in practice acquired a status that is similar to that of an official language. Thus, Poggeschi (2009, 23) speaks of the "semi-official

linguistic recognition” of these languages, while Cevolin (2009, 27) uses the term “the region’s own language” in relation to the definition used in the Regional Law 29/2007 for the protection of the Friulian language. They are referring to cases where the public use of minority languages in public administration and in the toponymy of the settlement areas of the minority language speakers has been legally acknowledged.

In the context of the public use of minority languages, there are some common points between the legal provisions for the protection of the Slovene national minority in the Law 26/2007 and for the Friulian language in the Law 29/2007. In effect, they summarise the guidelines stipulated in state legislation on the public use of minority languages, or more specifically those stated in Laws 482/1999 for the protection of historical linguistic minorities and 38/2001 for the protection of the Slovene linguistic minority. They regulate bilingual operations of public administrations on the principle of territoriality, according to which the protected area is defined on the basis of the delineations of municipal administrations. Law 26/2007 for the protection of the Slovene national minority specifically addresses the public use of Slovene in relations between citizens and the FVG Region, as the public use of Slovene in relations between citizens and other state institutions is already covered by Article 8 of State Law 38/2001 for the protection of the Slovene linguistic minority. The provisions of Law 29/2007 for the protection of the Friulian language regarding the public use of Friulian do, on the other hand, concern all local institutions, their dependent structures and public service authorities. In both laws, the public use of the minority language in oral and written communication between an individual and a public institution refers to various forms of communication of public institutions with the public (notifications, publications, notices, etc.), various types of documents and forms issued by the institutions, as well as toponymy. The key difference between the public use of Slovene and that of Friulian as minority languages lies in the fact that the public use of Friulian is included in the general language policy plan, which must be established and then implemented by all public institutions in the legally defined area of the presence of this regional language. The General Language Policy Plan as introduced by Law 29/2007 for the protection of the Friulian language requires each public institution to apply its guidelines and at the same time set up its own language policy plan which will be a prerequisite for obtaining the funds for bilingual operation. This system also provides for assessments. However, as for the public use of Slovene, no provisions have been made for a general or specific language plan, nor for an institution which would coordinate language policy in this area.

At the level of regional legislation of FVG in the field of the protection of national and linguistic minorities, the relationship between the standardized language and various dialects is in the foreground. The dialects of Slovene origin in the province of Udine and of German origin in Sauris and Timau represent a

unique cultural wealth, which is why in the present legislation specific provisions have been made for these dialects that were not present in the State Law 482/1999 for the protection of historical linguistic minorities. Owing to a relative isolation of the speakers of these dialects, who have traditionally lived in the mountainous areas, these dialects have been preserved in their specific original forms, which have been lost elsewhere due to the effects of standardization and education in national languages. This also raises the question of the extent to which these dialects can still be used in communication in modern and post-modern society and in the era of information technology. It is also not clear whether or not it would be sensible to include these dialects in the language of public administration. Law 29/2007 for the protection of the Friulian language does not devote particular attention to dialects. Quite the contrary, it encourages the use of the standard language and script.

5.3 Education in Minority and Regional Languages

In the field of education in regional or minority languages, regional legislation shows considerable dissimilarities between individual national or linguistic communities. The reason for this lies in the differences between the individual models of teaching in minority and regional languages that have been established in the FVG region over the decades. As opposed to the Friulian and German communities, the Slovene minority has a separate state school system with Slovene as the language of instruction and a regional education office for Slovene schools. Despite the fact that Slovene schools have been re-established in the period after World War II, they are governed by national legislation dating back to the 1960s and 1970s.¹⁰ Friulian began to be introduced in kindergartens and schools in the 1990s, on the basis of the regional legislation of that time. This legislation has since been updated and expanded.¹¹ As for Friulian and German, these minority languages are incorporated into school programmes for a limited number of hours, whereas Slovene has the status of a language of instruction along with a separate school system. For Friulian as well as for German, both regional legislation and national Law 482/1999 for the protection of historical linguistic minorities are important milestones on the path towards consolidating the presence of minority languages in the state school system, while these laws do not introduce any significant novelties into Slovene-language education. The regional legislation concerning Slovene and German also places emphasis on cooperation with foreign universities with a view to consolidating the knowledge of these languages among the minorities. In the field of education, regional legislation is certainly the most elaborately detailed for the Friulian language, as it also makes provisions for a competent advisory committee and for a suitable language policy.

6. Conclusions

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Palermo and Woelk (2003/2004) propose three elements to the aforementioned “law of diversity”, and on these we base the conclusions in this study. The first element concerns the existence of legal instruments for an individual minority community. From this aspect, the system of legal protection of national and linguistic minorities in the FVG region is based on three regional laws and is therefore asymmetrical. Each national or linguistic community has its own law, the contents of which derive from its distinctive political and social as well as cultural and linguistic situation. Thus, the regional legislation that has been developed and adopted remains separate for each minority, albeit structurally similar. The asymmetry of minority protection is also associated with the requirements for each minority’s recognition of its linguistic and identity distinctiveness which is based on the dialects and the needs of their speakers. The laws for the protection of the Slovene national minority and of the German-speaking communities make separate provisions for the protection of the local languages.

Secondly, Palermo and Woelk (2003/2004) state that in the “law of diversity” there is a need for the pluralism of legal sources and subjects. From this perspective, the more recent regional legal system on minority protection is based on different legal texts. What all three laws have in common is the national legal framework of minority protection, represented by Law 482/1999 for the protection of historical linguistic minorities, and by international and European reference texts and documents in this area. The three laws vary at the level of their additional legal sources: Law 26/2007 for the protection of the Slovene minority draws on the contents of the State Law 38/2001 for the protection of the Slovene linguistic minority and other post-war legal sources; Regional Law 29/2007 for the protection of the Friulian language builds upon the preceding Regional Law 15/1996 for the protection of the Friulian language; while Regional Law 20/2009 for the protection of German-speaking minorities is a fundamental law as it is not preceded by any relevant legal sources at the state or at the regional level. The texts of all three laws express mutual recognition between the Italian national majority and the three minorities, and at the same time stress the importance of acceptance and cooperation between the three minorities. This is also an aspect given particular attention by Palermo and Woelk (2003/2004) in their theory on the models of diversity management.

The third question raised by Palermo and Woelk (2003/2004) as well as by some of the other aforementioned authors (Schnekener 2004; Marko 2008) concerns the area of the right to self-government, representation and political participation, which are not dealt with in the present paper. As this is a broad topic, it undoubtedly requires separate treatment. Based on the analysis presented, we can certainly conclude that the diversity management system in the FVG region provides the three recognized minorities with the right to equality and with cultural rights, while the aspect of self-government is not in the foreground. In

the Italian national legal system of minority protection, to which the legislation of the FVG Region is linked, territory definitely represents a fundamental element. It is the municipal territory that defines and limits the implementation of the stipulated minority rights. However, the same municipal territory has no specific forms of self-management that would draw upon the ethnic diversity of its population. And this, according to the authors on diversity management, is an essential condition for the success of minority protection and preservation of ethnic pluralism in terms of national minorities and regional languages.

The more recent legal framework of the FVG Region in the field of national and linguistic minorities raises a number of additional research questions concerning the implementation of the provisions made. At the forefront in this context are the socio-political circumstances allowing for their implementation, e.g., the political pressure exerted by the national majority, public opinion of the regional population, bureaucratic processes of the public administration, financial sustainability of the system of public use of minority languages and the intensity of use of minority rights by members of the minorities and speakers of minority languages.

Notes

- ¹ Among these we can find national minorities such as the Slovene one in the FVG region, the German one in South Tyrol and the French one in the region of Valle d'Aosta; regional languages such as Friulian, Ladin, Sardinian, Occitan, Franco-Provençal and Catalan; language islands or archipelagos such as the Albanian-Arbëresh- and Greek-speaking communities in southern Italy and the Croatian-speaking minority in the region of Molise.
- ² The legal definition of the Friulian-speaking area in FVG is evident from the list of municipalities from two Decrees by the President of the Regional Council of the Autonomous Region of FVG: Decrees 412/1996 and 160/1999. This list was subsequently confirmed by the Regulations on the Implementation of Law 482/1999 (Decree of the President of the Republic 345/2001). The Friulian language environment also includes certain areas around the city of Portogruaro in the province of Venice in the Veneto region (the towns of Gruaro, Teglio), Fossalta, San Michele al Tagliamento (Vicario 2006).
- ³ Members of these communities emigrated for economic reasons during the period extending from the annexation of the territory to Italy in 1866 to the 1960s. Especially numerous are emigrant communities in Northern Europe, Germany and Belgium, Canada, Argentina and Australia. These communities preserve contacts with their native Friuli through a network of expatriate organizations such as *Fogolârs furlans* (Friulian fireplaces) and *Fameis furlanis* (Friulian families) (Vicario 2006).
- ⁴ On the basis of popular demand, municipalities were added to this list if they had at least 15 per cent of the population, or one-third of municipal advisors. The Joint Institutional Committee in charge of issues related to the Slovene minority then finalised this list and submitted it for approval to the Ministerial Council in Rome. The list was approved on 3 August 2007, and on 12 September 2007 the President of the Republic Giorgio Napolitano signed the decree of its validity (Udovič 2007). There is a possibility for this list to be extended if additional municipalities apply for inclusion.
- ⁵ The region is the largest and most important of the territorial units of the Italian state. It is characterized by the autonomy of its political and administrative direction (Brandt 1998, 141). Its

aim is to pursue the local interests of the natural aggregates of population which extend past the provincial and municipal borders of a given territory (Bartole & Mastragostino 1997, 43). The structure of the Italian state also provides for smaller administrative units within the regions in the form of provinces, municipalities and metropolitan cities. Similarly to the regions, the principle of autonomy also applies to these smaller units (Vandelli & Mastragostino 1996, 24). They have the official authority to pursue the goals and interests of their communities on the basis of their political and administrative direction which is different and, in part, independent. Just like the regions, they also enjoy financial autonomy in terms of financial independence related to the expenses and the power to determine their own taxes (Palermo 2005, 191).

- ⁶ In Italy, this region represents a special case as it has been dealing with ethnic and linguistic pluralism since its creation in the 1960s, due to the presence of the Slovene, Friulian and German minorities. The Autonomous Region of FVG came into existence in 1964 as the last of the Italian regions (Constitutional Law 1/1963), following the resolution of the “Trieste issue” in 1954 by the London Memorandum (Bartole & Mastragostino 1997, 17–19; Bartole et al. 2003, 13). Due to the international dimension of this situation and the border between Italy and Yugoslavia, approval of the statute of this region was previously impossible. Upon the establishment of the region, Slovenes and Friulians saw the special autonomy as a possibility of explicit recognition, also through forms of cultural and political autonomy of minority communities, which was not brought into effect (Stranj 1992). In fact, some authors point out that the special statute of FVG is due primarily to the presence of the Slovene-speaking population (Paladin 1973, 18–19; Bartole & Mastragostino 1997, 25; Bartole et al. 2003, 40). In any case, the issue of national minorities was not in the foreground at that time. The aim of the special statute was the socio-economic integration of the provinces of Friuli and Venezia Giulia, as up to 1963 these areas were historically and economically detached (Paladin 1973, 18–19; Bartole and Mastragostino 1997, 25; Bartole et al. 2003, 40).
- ⁷ The administrative and political structure of the Italian state consists of twenty regions: Abruzzo, Apulia, Aosta Valley, Basilicata, Emilia-Romagna, Friuli Venezia Giulia, Calabria, Campania, Lazio, Liguria, Lombardy, Marche, Molise, Piedmont, Sardinia, Sicily, Tuscany, Trentino-Alto Adige, Umbria, Veneto.
- ⁸ The first international legal source that provided Slovenes living in Italy with a basic form of legal protection was the Special Statute of the London Memorandum of 1954, which laid down a number of political and social rights for the Slovene minority in Italy, namely the right to use their language in interactions with administrative services and judicial authorities; the right to bilingual public signs and bilingual printed publications; the right to bilingualism in educational, cultural and other organizations; the right to public funding intended for these organizations; and the right to instruction in their mother tongue and the right to preserve the existing Slovene schools (Stranj 1992). These rights continue to form a model for protection of the Slovene minority in Italy. The territorial scope of these rights was limited only in the area of the former Zone A, which covered the present province of Trieste. This meant that the Slovene population in the area of Gorizia and Udine was in a different legal position. In the area of Gorizia certain acquisitions from the period of the Allied Military Government between 1945 and 1947 were preserved (e.g., the public use of Slovene language and bilingual signs in some municipalities with an entirely Slovene population) (Troha 2003). In the area of Udine, the Slovene population was not legally recognized until 2001, and until the adoption of the Protection Law 38. The Italian government adopted the content of the London Memorandum in 1975 by signing the Treaty of Osimo (Petrič 1980). This treaty finally resolved the issue of the border between Italy and Yugoslavia (later Italy and Slovenia). It also promoted cooperation between the two countries and discussed their minorities.
- ⁹ Before this time, an important milestone in the regional legislation related to the protection of the Slovene minority and the Friulian language in FVG occurred in the 1990s. On the basis of the national legislation of the time, the Autonomous Region of FVG adopted a regional law, which for the first time explicitly dealt with the financing of Slovene organizations and institutions in Italy (Law 46/1991). The Region also developed a series of laws aimed at the protection of the

Friulian language, the most important of which was Regional Law 15/1996 for the protection of the Friulian language. It represents the first legal document establishing the policy for the protection of the Friulian language and a series of linguistic rights for the speakers of this language. In 1999, the Autonomous Region of FVG also introduced the first forms of providing financing to institutions active in the protection of German-speaking minorities. Prior to these laws, the treatment of minority issues was only non-systematically included in other regional laws relating to the protection of regional cultural heritage. In these very beginnings of regional legal protection of minorities, the dividing line between the protection of Slovenes, the Friulian language and the German minorities was not clearly drawn. These provisions expressed a general positive attitude towards regional linguistic diversity in the spirit of Article 3 of the Special Statute of the Autonomous Region of FVG. They did not make any provisions for a clear system of regulation of the minority issue. They were mainly concerned with more of a cultural promotion and protection of regional and minority languages. At the same time they pertained mainly to Article 9 of the Italian Constitution on cultural heritage, and less to Article 6, which deals specifically with the protection of historical minorities (Cisilino 2004).

¹⁰ The Slovene-language education system in the provinces of Trieste and Gorizia is subject to State Laws 1012/1961 and 932/1973 and Protection Law 38/2001 (Bogatec 2004).

¹¹ In the 1990s, three regional laws pertaining to the protection of the Friulian language and culture were adopted (6/1992, 36/1993 and 48/1993); these laws began to address a systematic protection of the Friulian language. They were later replaced by Regional Law 15/1996 for the protection of the Friulian language. The first of these (Law 6/1992) makes provisions for the regional funding of the initiatives for the benefit of research on the issues related to the Friulian language and culture in the historical, social, cultural, economic and linguistic context (Article 2), supports the distribution of publications and other tools of Friulian-language instruction in schools (Article 3) and the creation of publications and radio and television broadcasts in the Friulian language (Article 4). It is complemented by the second of the aforementioned laws (Law 36/1993), while the third (Law 48/1993) deals explicitly with the financing of Friulian language teaching in schools. With regard to education in the Friulian language another important law is Regional Law 3/2002, which provides for the funding of projects in this field from the regional budget (Picco & Carozzo 2008).

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