

Linguistic policy and national minorities in Romania

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Abstract

Basic principles of Romanian linguistic policy as regards national minorities have been stipulated in Constitution and special laws. Although is too early to declare its model it can be considered an example of good practice in a highly sensitive matter. After a short presentation of the background, the paper analyzes the main features of minority language policy in Romania from a legal perspective. It deals in detail with the Constitutional and national laws which regulate the status of the official language, education in minority language, use of minority language in public administration and police forces, minority language and mass-media. Several considerations regarding the situation of Roma minority are added to complete the image before the conclusions that can be drawn at the moment.

Summary

1. Introduction
2. A short overview of minority issue in Romania in the last decade
3. The legal framework of Romanian linguistic policy
 3. 1 The Constitution of 1991 and constitutional amendments of 2003
 3. 2 Linguistic rights and education
 3. 3 Linguistic rights, public administration and police forces
 3. 4 Linguistic rights and media
4. Roma minority
5. Conclusions
6. Bibliography

1. Introduction

It is submitted that language policy as regards national minorities in Romania is still a matter of political bargaining although its basic principles were set up already in Constitution and special laws. In my opinion it is too early to declare it a "success story" as the politicians likes to do but nevertheless it can be considered an example of good practice in a highly sensitive matter, in a country and in a geographical region where minority issue represented always a hot potato. It should be emphasized the fact that a combined pressure from European Union, NATO, Council of Europe and Hungarian minority political representatives has proved to be decisive in order to convince Romanian political class to accept reforms as regards minority rights in general. It is obvious that some domestic legislative and institutional measures have been taken in the last decade due to pragmatic political reasons and not because local politicians were eager to regulate the matter. NATO and EU membership depends also on political criteria and this conditionality pushed the treatment of national minorities as a priority on the Governmental agenda. Unfortunately, Romania still doesn't have a framework law on national minorities but what is quite certain is that the situation of minority rights looks very different from ten years ago. On the other hand, it should not be forgotten that laws' success depends not only on their wording but mainly on their correct and timely implementation.

What are the main characteristics of Romanian language policy? I will answer to this question following the language policies classification made by Kymlicka and Patten¹ who organized them by distinguish between: "(1) tolerance vs promotion-oriented rights; (2) norm-and accommodation vs official-languages rights regimes; (3) personality vs territoriality rights regimes; (4) individual vs collective rights." Tolerance rights permit to individuals to use whatever language they want in the private life while the promotion-oriented rights means that individuals may use minority languages in public sphere—administration, courts, education system. Romanian linguistic policy is characterized by both tolerance and promotion rights. "Norms-and-accommodation regime" is that one in which the language of majority has the main role being used normally in all sectors of the society but, under specific terms, minority languages may be used as well in relation with public institutions.

In "official-languages regime", certain languages are declared official and any public service may be received in no matter which of these languages that enjoy an equal legal status. It is submitted that Romania has a "norm-and-accommodation" linguistic policy. Personality principle implies that citizens may enjoy linguistic rights, under the terms of law, wherever they live in the country. On the contrary, according to territorial principle, linguistic rights are connected with certain territorial areas of the country. It is undoubtedly true that in Romania it is applied the personality principle. The dispute around individual and collective rights is a classic one and it doesn't need more comments. The fact of the matter surely is that in Romania the concept of "collective rights" is strongly rejected by authorities. Although some representatives of Hungarian minority, for example, speak often about collective rights, officially, there are no such rights but only individual linguistic rights which are exercised together by persons belonging to national minorities.

The purpose of this paper is to analyze the main features of minority language policy in Romania from a legal perspective. Thus, the focus will be on the linguistic rights guaranteed to national minorities by the existing legal framework. For a better understanding of the matter, I considered necessary to present briefly, in the first part, the context of minority rights issue in Romania in the last decade. The second part deals in detail with the Constitutional and national laws which regulate the status of the official language, education in minority language, use of minority language in public administration and police forces, minority language and mass-media. Third part is reserved for several considerations regarding the situation of Roma minority. The conclusions are outlined in the last part.

2. A short overview of minority issue in Romania in the last decade

In Romania, the last phase of the Communist system was characterized by a virulent nationalistic discourse and its negative effects were visible long time after the dictatorship regime was overthrown in December 1989. The minority issue became clock bomb from the first days of freedom. Officially the largest minority in the country, Hungarians² were the first minority group to ask for specific rights. In Transylvania they have requested immediately education in the mother tongue at all levels and segregation of the schools on the base of ethnic criteria. Romanians have reacted strongly against such requests considering them as first steps of a Hungarian revisionist movement. The tension became explosive in Transylvania and the worst scenario became true in March 1990 in the city of Targu-Mures (Marosvasarhely in Hungarian) where ethnic hatred erupted. Romanians and Hungarians were fighting each other and people were dying in the streets. Hopefully the violent conflict was a short one but the trauma it left has deepened the historical mutual mistrust between the majority and Hungarian minority.

¹ W. Kymlicka and A. Patten, "Language Rights and Political Theory: Context, Issues and Approaches" in W. Kymlicka & A. Patten (editors), *Language Rights and Political Theory*, Oxford University Press, 2003, p. 26.

²The official results of the Census of 2002: total population 21 698 181 persons; Romanians: 19 409 400 (89.5%), Hungarians: 1 434 377 (6.6%), Roma/Gypsies: 535 250 (2.5%), Ukrainians: 61 091 (0.3%), Germans: 60 088 (0.3%), Russian Lipovans: 36397 (0.2%), Turks: 32 596 (0.2), Tatars: 24 137 (0.1%), Serbs: 22 518 (0.1%), Slovaks 17 199 (0.1). The other national minorities are less than 0.1% of the population. Roma representatives and Human Rights NGOs consider unrealistic the official data regarding this ethnic group. It is submitted that the real number of Roma/Gypsies is higher than the 535 250 persons but this is not shown in the statistics because there are Roma/Gypsies who declare themselves as belonging to Romanian or Hungarian ethnic group.

It is submitted that in the next six years, at official level, almost nothing was done as regards minorities rights. Moreover, the nationalist Greater Romania Party was a partner in the coalition which was in power. In December 1991 was approved by referendum the new Constitution which declares that "Romania is a sovereign, independent, unitary and indivisible National State" (Article 1), but "the State recognizes and guarantees the right of persons belonging to national minorities, to the preservation, development and expression of their ethnic, cultural, linguistic and religious identity" (Article 6).³

In 1991, the Parliament passed the Law no. 69/1991 on public administration which didn't reflect all the expectation of national minorities and has been strongly criticized by ethnic Hungarian political elite. It contained only two provision regarding minority languages: Article 30 which stipulated that decisions of the local Council are made public also in the minority languages in the administrative-territorial units where a significant number of persons belonging to national minorities live and Article 54 which allowed minority persons to use their mother tongue, written or orally, in relation with public administration authorities under the condition to attach a Romanian translation of the documents, respectively to use the service of a translator. The most important right obtained by minorities in the early '90 was the representation in the Parliament. Law no 68/1992 on the election of Chamber of Deputies and Senate assured a deputy mandate for each national minority, under certain conditions. Article 4(1) of Law no 68/1992 stipulates that "legally constituted organizations of citizens belonging to national minorities which fail to obtain at least one seat in the Chamber of Deputies or the Senate in the elections shall have the right to one seat in the Chamber of Deputies, in accordance with Article 59 paragraph (2) of the Constitution, provided that their share of the vote is at least 5% of the average number of validly cast votes in the entire country for the election of a Deputy."

In 1993, was established a Council for National Minorities composed by representatives of national minorities and civil servants from ministries. This was only a consultative body and its lack of powers marked its activity which can be described as very discreet.

Romania became a member of the Council of Europe on 7 October 1993, signed the Framework Convention for the Protection of National Minorities on 1 of February 1995 and ratified it on 11 of May 1995. This positive measure was followed by a step back. Representatives of national minorities, especially Hungarians, have criticized sharply the Law on education no 84 in the form adopted by Parliament in July 1995. It contained restrictive provision as regards minority rights which were eliminated few years later. Romania submitted its application for EU membership on 22 June 1995. In February 1995 entered into force the Europe Agreement establishing an association between the European Economic Communities and their Member States, of the one part, and Romania, of the other part. In the preamble it is stressed out the "need to continue and complete, with the assistance of the Community, Romania's transition towards a new political and economic system which respects the rule of law and human rights, including the rights of persons belonging to minorities".

In November 1996, the opposition parties won the parliamentary elections and invited the political organization of Hungarian minority to join the new governmental coalition. The Democratic Alliance of Hungarians from Romania (hereinafter DAHR) accepted the political deal proposed and thus, for the first time in Romanian history, in the Government were appointed ministers from a party representing the interests of Hungarian minority. One of them was the Minister delegated by Prime-Minister for national minorities who had the role to coordinate the new Department for Protection of National Minorities established in February 1997. This moment marked the beginning of a new era for national minorities in Romania because of the wave of legislative and institution changes it brought. A process of restitution of real estate good which belonged to national minorities has started.⁴ Laws on public administration and education were amended by means of Governmental Emergency

³ The Constitution was adopted in the sitting of the Constituent Assembly of 21 November 1991. It was published in the Official Gazette of Romania, Part I, No. 233 of 21 November 1991, and it came into force after its approval by the national referendum of 8 December 1991.

⁴ e.g. Urgency Government Ordinance no. 13/1998 on the restoring of some real estates which belonged to the communities of the citizens belonging to the national minorities from Romania. All Romanian laws and Constitutional Court decisions mentioned in this paper are available online, in English, in Minority Rights Information System (MIRIS database) <<http://www.eurac.edu/miris>> [visited on 24 may 2004].

Ordinances in order to provide linguistic rights for minorities.⁵ The Institution of Ombudsman⁶ was established and, as a premiere in Central and Eastern Europe, a framework law on anti-discrimination entered into force⁷.

After the elections of 2000, although DAHR didn't enter in a governmental coalition it made a political deal with the party in power. Point 8 of the "Agreement on co-operation between the Social Democratic Party and the Democratic Alliance of Hungarians in Romania in 2002" stipulates that "[t]he two political parties shall continue to grant priority to the protection of national minorities, institutional and legislative development of their issues. The conditions to secure the right to freely express the preservation and development of ethnic identity shall continue to broaden for all Romanian citizens belonging to national minorities, in order to manifest themselves in areas of cultural, religious, educational, and public life. Special attention shall be granted to the issues of minority communities in the localities where their proportion is small compared to the majority population". In exchange of DAHR's political support in Parliament and at local level further measures on favor of national minorities were taken. One of the most important moments was the parliamentary vote on the new Law on public administration no 215/2001 which provides for the use of minority languages in administrative-territorial units where a minority represents at least 20% of the population. The National Council Combating Discrimination, a specialized body for implementation of equality principle and enforcement of non-discrimination legislation, was established in 2001⁸.

Provisions regarding linguistic rights were included in 2002 in the new Law concerning the status of policepersons and new Law on audiovisual⁹ despite the tensions brought in Romanian political life by the controversial Status Law¹⁰ passed by the Hungarian Parliament in favor of Hungarian minorities in neighboring countries except Austria, a EU member state where some provisions of the Hungarian law would have been inapplicable due to their discriminatory effect¹¹. In October 2003, Romanian Constitution was amended and the use of mother tongue, under the terms stipulated in the specific organic laws, both in relation with public administration and in the Courts became constitutional principles.¹²

In the last decade there were made public and debated at least five draft laws on national minorities but none of them received the political and public support needed to be put on the parliamentary agenda. Another issue still open is the ratification of the European Charter for Regional or Minority languages. A draft law on ratification elaborated by the former Department for Protection of National Minorities in 2000 was blocked by political disputes in an electoral year. It seems that actual Government prepares a draft law on ratification as well but, my own view is that nothing concrete will be done this year as politicians are again busy with elections. Most probably the Charter will not be a priority.

3. The legal framework of Romanian linguistic policy as regards national minorities

3. 1 The Constitution of 1991 and constitutional amendments of 2003

It is submitted that Romanian Constitution in the form adopted in 1991 didn't reach the expectations of the large Hungarian minority. The representatives of Roma and other small minorities in the country adopted a quite neutral position as regards the constitutional principles regarding their rights. My own view is that while they were not necessary satisfied

⁵ The use of minority language in the public administration and education in mother tongue at all levels.

⁶ Law no. 35/1997 on the organization and functioning of the Advocate of the People Institution -the Ombudsman.

⁷ Government Ordinance no. 137/2000 on Preventing and Punishing All Forms of Discrimination (as modified by Law no. 48/2002).

⁸ Governmental Decision no. 1194/201 on the Organization and Functioning of the National Council for Combating Discrimination.

⁹ Law no. 360/2002 concerning the status of policepersons and Law no. 504/2002 on audiovisual.

¹⁰ Act LXII of 19 June 2001 on Hungarians living in the neighboring countries.

¹¹ Sergiu Constantin, "The Hungarian Status Law on Hungarian Living In Neighboring Countries", in *European Yearbook of Minority Issues*, Volume 1, 2001/2, p. 593-623.

¹² Articles 120 and 128 of the Romanian Constitution, republished with the updated denominations and renumbered articles.

with the provisions laid down in the Constitution, being aware of their absolute lack the political power, they simply accepted the standards proposed by the majority. On the other hand it is obvious that interests of Roma or small minorities are not always similar the aims of Hungarian minority. For example, while Hungarian representatives were from the beginning against the inclusion of "Nation State" principle in the Constitution, for the representatives of other minorities this is not really an issue.

Article 1 declares Romania a sovereign, independent, unitary and indivisible National State and Article 4 "Unity of the people and equality among citizens" states that it is homeland of all its citizens, without any discrimination on account of race, nationality, ethnic origin, language, religion, sex, opinion, political adherence, property or social origin. In 2003 no amendments were brought to these provisions.

First paragraph of Article 6 "Right to identity" recognized and guaranteed the right of national minorities to preserve, develop and express their ethnic, cultural, religious and linguistic identity but the second paragraph made clear that protection measures taken by the Romanian State in the light of first paragraph shall be conform to the principles of equality and non-discrimination in relation to the other Romanian citizens. As it has been seen in the last decade, a very rigid application of the second paragraph might be an obstacle to the efforts to improve the situation of Roma people. In time it became clear that due to their specific situation, the State should adopt special measures for Roma in fields like education for example. Despite this situation the article remained unchanged in 2003.

Article 13 declares Romanian as the official language and Article 32 "Right to education" guarantees in paragraph 3 the right of persons belonging to national minorities to learn their mother tongue and to be educated in this language under the conditions laid down in the organic Law on education. These provisions were not subject of amendments in 2003.

Article 62 "Election of the Chambers" (Article 59 before amendments) represents a very interesting provision because it seems to me that, in a way, can be considered a form of affirmative action in favor of national minorities as regards representation in the Parliament. Paragraph 2 stipulates that "organizations of citizens belonging to national minorities, which fail to obtain the number of votes for representation in Parliament, have the right to one Deputy seat each, under the terms of the electoral law. Citizens of a national minority are entitled to be represented by one organization only." This constitutional guarantee which has assured the representation of national minorities in every Parliament remained unchanged.

Article 73 (old Article 72 in the form of 1991) regarding the classes of laws passed by the Parliament was amended thus including now "the status of national minorities in Romania" as a matter which must be regulated by means of organic law.

In 2003, one of the most important amendments for minorities was the introduction of a new paragraph of Article 120 (old Article 119 in the form of 1991) which provides for the use of minority language in relation with public administration. The Constitutional principle is that "[i]n the territorial-administrative units where citizens belonging to a national minority have a significant weight, provision shall be made for the oral and written use of that national minority's language in the relations with the local public administration authorities and the decentralized public services, under the terms stipulated by the organic law".

Finally, an important amendment regards the use of minority language in the Courts. Article 127 "Right to have an interpreter" in the form of 1991 stipulated that "citizens belonging to national minorities, as well as persons who cannot understand or speak Romanian have the right to take cognizance of all acts and files of the case, to speak before the court and formulate conclusions, through an interpreter; in criminal trials, this right shall be ensured free of charge." After 2003, old article 127 became the new Article 128 called "Use of mother tongue and interpreter in the Court" which contains separate provisions as regards Romanian citizens belonging to national minorities who "have the right to express themselves in their mother tongue before the courts of law, under the terms of the organic law. The ways for exercising [this right] including the use of interpreters or translations, shall be stipulated so as not to hinder the proper administration of justice and not to involve additional expenses to those interested."

It is worth mentioning also the fact that a new title on “Euro-Atlantic integration” was introduced in 2003.¹³ The provisions of the Constitution with regard to the national, independent, unitary and indivisible character of the Romanian State, the republican form of government, territorial integrity, and independence of justice, political pluralism and official language cannot be subject to revision.¹⁴

3. 2 Linguistic rights and education

Law on education no 84/1995 was amended by Governmental Urgency Ordinance no 36/1997 in order to improve the legislative framework on education for national minorities. Two years later those amendments were approved by the Parliament (Law no 151/1999) and the new version of the law was republished in the Official Gazette no. 606 of 10 December 1999. The whole chapter XII of the Law (Article 118-126) is dealing with “Education for persons belonging to national minorities”. The principle is that persons belonging to national minorities have the right to study and receive instruction in their mother tongue, at all levels and forms of education where there is an appropriate request (Article 118). Thus, at request and taking into consideration the local need, can be established groups, classes, sections or school units with teaching in the languages of national minorities but without prejudice to the learning and the teaching of the official language (Article 119).

In the next article, the legislators regulated in a very detailed way the teaching of Romanian language in schools with tuition in minority languages (in primary schools, Romanian Language and Literature shall be taught according to curricula and textbooks specially conceived for the respective minority; in middle schools, Romanian Language and Literature shall be taught according to identical curricula as for grades with tuition in Romanian, but from special textbooks; in secondary schools, Romanian Language and Literature curricula and textbooks shall be identical as for grades with tuition in Romanian). The same article specifies the terms and conditions for teaching two other important subjects that can be considered sensitive in inter-ethnic relations: History and Geography. In primary schools with tuition in languages of national minorities, History of Romanians and Geography of Romania shall be taught in these languages, according to identical curricula and textbooks as for the grades with tuition in Romanian; it is compulsory to transcribe and acquire the Romanian toponymy and Romanian proper names. In middle schools and in secondary schools, History of Romanians and Geography of Romania shall be taught in Romanian, according to the same curricula and the same textbooks as for the grades with tuition in Romanian. Examination for the subjects History of Romanians and Geography of Romania shall be carried in the language in which the subject was studied.

A subject called “History and traditions of national minorities” can be introduced, at request, in the middle school. It shall be thought in the mother tongue of the pupils (Article 120 paragraph 4). Moreover, pupils belonging to national minorities that attend schools with tuition in Romanian shall be granted, at request, the study of the Language and the literature of the mother tongue as well as the history and traditions of the respective national minority, as school subjects (Article 121).

The Law stipulates further that in public vocational, secondary, and specialized post-secondary education where specialist training is provided in the mother tongue, it is compulsory to acquire the special terminology in Romanian language as well (Article 122) but is underlined the principle that at all levels of education, admission and graduation exams shall be taken in the language in which the respective subject matters have been studied (Article 124).

¹³ New Articles 148 and 149.

¹⁴ Article 152 of the Constitution (old Article 148 in the form of 1991) remained unchanged.

Article 123 represents a very important provision especially for Hungarian minority because it is dealing with matters regarding education at university level. Since the fall of the communism, the representatives of Hungarian minority requested with all the occasions the need to establish a separate State University with tuition in Hungarian languages. One proposal was to re-split the existing multicultural Babes-Bolyai University¹⁵ of Cluj (Kolozsvár in Hungarian) in two separate universities but no agreements was reached in this case and it seems that chances to put in practice such a solution are close to zero. Paragraph 1 of Article 123 stipulates that, at request and according to the law, within higher educational institutions run by State may be established groups, sections, colleges and faculties with tuition in minority language. In this case, the conditions necessary in order to acquire the specialized terminology in Romanian language shall be assured. At request and according to the law, multicultural higher educational institutions can be established.

The languages of teaching shall be determined in the foundation law. Based on these provisions (included in the Law by amendments of Governmental Urgency Ordinance no. 36/1997), the Government passed, in July 1998, the Government Decree no. 378/1998 on the establishment of the Evaluation Committee for the foundation of the State University with tuition in Hungarian language. Due to political reasons, there were no further progresses as regards this initiative but soon a new idea emerged: a State multicultural university with tuition in Hungarian and German. The first move of the Government in this new direction was also the only one until now. In October 1988, it came into force the Government Decree no 687/1998 on the initiation of the foundation process of the "Petofi-Schiller" State Multicultural University with Hungarian and German as languages of education. No further steps were taken due to a combination of various factors like lack of political will, internal disputes in the governmental coalition, new elections period, new Government in power. The issue remains still open although it wasn't lately in the top of the agenda of discussions between Hungarian representatives and the Government.

Paragraph 2 of Article 123 declares that "persons belonging to national minorities shall have the right to set up and manage their own private higher educational institutions according to the law." This was achieved already by Hungarian minority which established its own private university level educational institutions. Sapientia University was set up in 2001 as a private and independent Hungarian-language university with four branch campuses in Transylvania: Cluj (Kolozsvár), Targu Mures (Marosvasarhely), Miercurea-Ciuc (Csikszereda) and Oradea (Nagyvarad). The last one is ran today as a separate Hungarian language institution known as the Partium Christian University.

Finally, Article 126 of the Law on education provides for a proportional representation of the teaching staff belonging to national minorities in the managing boards of educational units and institutions with classes, sections and groups providing tuition in the languages of national minorities, in compliance with their professional competence.

Those legal provisions regarding education in minority languages were challenged at Constitutional Court but the judged declared the objection of unconstitutionality unfounded. In its Decision no. 114 of 20 July 1999 on the constitutionality of the Law on the approval of the Government Urgency Ordinance No. 36/1997 for the modification and completion of the Education Law No. 84/1995, the Court held that "the legal text now criticized under this reference of unconstitutionality has extended access granted to national minorities to various education forms and levels. The possibility to organize higher education institutions in the national minorities' languages, as well as to set up multicultural higher education institutions does not discriminate against other Romanian citizens, but is, quite conversely, intended to ensure equality of citizens belonging to national minorities with members of the Romanian ethnicity, in what concerns the existence of an adequate institutional framework in the field of education."

¹⁵ Babes-Bolyai University was established during communism by merging Babes University (tuition in Romanian) with Boyai University (tuition in Hungarian). Today, Babes-Bolyai University offers complete study programs in Romanian (101 specializations), Hungarian (49 specializations) and German (13 specializations) and it has around 40 000 students grouped in 19 faculties. See <<http://www.ubbcluj.ro>> [visited on 24 of May].

In its Opinion (made public on 10 January 2002) on Romanian State Report of First Monitoring Cycle, the Advisory Committee on the Framework Convention for Protection of National Minorities welcomed the new legal standards of linguistic policy on national minorities but noticed also that "a shortage of minority-language textbooks and qualified teachers is still the rule for some minorities, in particular Armenians, Croats, Poles, Serbs, Slovaks, Turks and Tatars. This makes it hard for schools attended by children from national minorities to provide full education of the same standard as that provided in Romanian. Although many other factors can affect their choice, this may discourage parents from sending their children to schools where most subjects are taught in the minority language. The Advisory Committee considers that this matter should be reviewed in order to provide the said minorities with the necessary textbooks and teachers."

Within the Ministry of Education, Research and Youth there is a "General Directorate for education in the languages of national minorities and access to education". According to the 2003 Governmental Report called "The dimension of education for national minorities in Romania",¹⁶ in 2002-2003 school year, in pre-university in 2,648 school units and sections 208,146 children and pupils studied in the 7 native languages. In higher education 30,684 ethnic students studied in over 20 university centers in Romania (25,762 Hungarians, 1,881 Germans and 3,041 other national minorities). The report also points out that, in the present, in Romania there are 3 types of education for national minorities: educational structures with tuition in the native language, educational structures with partial tuition in the native language, and educational structures with tuition in Romanian language with the study of the native language.

European Commission Regular Report on Romania's progress towards accession (November 2003) mentions that "as regards the use of minority languages, there was a very slight decrease in the 2002-2003 academic year in the number of mother-tongue educational units and in the number of students being educated in their mother tongue. The Department for Inter-Ethnic Relations financed the publication of several secondary school textbooks in the German, Hungarian and Serbian languages. The constitutional requirement for education to be organized only in Romanian or in languages of international circulation has been abrogated, opening up the possibility of private universities teaching exclusively in minority languages. Two private Hungarian universities continued to function well."

3. 3 Linguistic rights, public administration and police forces

The new Law of local public administration no. 215/2001 represents a great achievement for national minorities in Romania. The basic principle is that citizens belonging to a national minority which makes up at least 20% of the number of inhabitants of an administrative-territorial unit, shall enjoy the right to use their mother tongue in their relations with local public administration authorities, under the terms set forth in the Law of local public administration, in the Framework Convention for the Protection of National Minorities and in other conventions and international treaties to which Romania is a party (Article 17). This implies the recognition of a list of linguistic rights laid down in the following provisions of the law. First of all, citizens belonging to a national minority enjoy the right to address the local public administration authorities and the specialized personnel of local and county councils in their mother tongue, whether in written or orally, and they shall be answered both in Romanian and in their mother tongue (Article 90 paragraph 2). As a logic consequence, persons who speak and write the minority language have to be employed in the public relation posts within the local administration (Article 90 paragraph 3). In fact, an identical provision can be found in Article 99 of Law no 188/1999 on the status of the public servant, while Article 26 of the same act bans any discrimination between the public servants on the base of ethnic criteria.

Article 40 and 106 of Law on local public administration stipulate that in the territorial-administrative units where the share of the citizens belonging to a national minority is over 20% of the number of inhabitants, they shall enjoy the right to be informed in their mother tongue about the agenda of the local or county council session. Moreover, in the local or county councils where the councilors belonging to a national minority represent at least one third of the total number, their mother tongue may also be used in the council meetings. In such cases, the translation into Romanian language should be ensured by the courtesy of the

¹⁶ The documents is available in English at <<http://www.edu.ro>> [visited on 24 of May].

mayor. However, in all the cases, the documents of the council meetings shall be drawn up in the Romanian language (Article 43 paragraph 3).

On the other hand, Article 51 stipulates that "(...) the decisions of normative character shall be brought to the public knowledge also in the mother tongue of the respective minority, while those of individual character shall be communicated, only at request, in the minority language". Under the same condition (persons belonging to a national minority represent at least 20% of the number of inhabitants) the local authorities shall ensure the inscription in the respective minority language of the names of localities, names of public institutions under their authority and of public announcements (Article 90 paragraph 4)

In December 2001, the Government issued Decision no. 1206/2001 on the adoption of application Guidelines for the provisions concerning the right of citizens belonging to national minority to use the mother tongue in local public administration, as stipulated in the Law of local public administration no. 215/200. This regulation has a double importance: it details the linguistic rights laid down in the Law and is has the role to facilitate the implementation of the new legal provisions regarding national minorities. As regards the details, according to Article 9, for example, stipulates that official ceremonies organized by the local public administration authorities shall be performed in Romanian, the official language of the State but, in administrative-territorial units in which citizens belonging to a national minority represent at least 20% of the number of inhabitants, the language of the respective minority may also be used. Marriage service shall be performed by the matrimonial officer in Romanian. Upon request, the marriage ceremony may be performed in the mother tongue of the persons to be married, provided the matrimonial officer speaks the respective language. Marital documents and certificates shall be drawn up in Romanian language exclusively. As regards implementation, the Governmental Decision specifies in Article 11 and 12 how the how the inscription of the names of localities and public institution should look like. The act contains also twenty-three Annexes with minority languages' names of the localities where bilingual sign are needed.

The Law was challenged at Constitutional Court because of its provisions regarding linguistic rights of minorities but the unconstitutionality charges were rejected as un-grounded. In the Decision no. 112 of 9 April 2001, the Court held that "none of the provisions cited states that the language of a national minority is an official language. On the contrary, paragraph (3) of Art. 43 provides that the official language of the state is Romanian, and quotes from Art. 13 of the Constitution. Furthermore, the text of the articles subject to notification expressly states that, when the percentage of citizens belonging to a national minority exceeds 20% of the total population of the relevant administrative-territorial unit, the use of mother tongue shall be ensured in the relations with the local public administration authorities, as well as in public documents, without thereby violating the official status of Romanian language. (...) The Law of local public administration merely states and fixes the details of the enforcement of the provisions in Art. 10.2 of the Framework Convention for the Protection of National Minorities, which, according to Art. 11.2 and 20.2 of the Constitution, may be directly enforced."

In the Opinion on Romanian State Report of First Monitoring Cycle, Advisory Committee proposed to The Committee of Ministers of Council of Europe to conclude that the Law on local public administration recently adopted by Romanian Parliament could put an end to the legal uncertainty prevailing in the use of minority languages in dealings with local authorities and to recommend to Romanian authorities to pay sufficient attention to the implementation of this Law once this has entered into force. A similar positive evaluation can be found in the Regular Report of the European Commission on Romania's progress towards accession (November 2003): "the law providing for bilingual signs in localities where minorities represent over 20% of the population has now been applied in the vast majority of cases. In the same localities, implementation has also started of the legal requirement for police officers to speak the mother tongue of the respective minority."

In Romania, in the last decade, Police forces went through a slow process of reform from a repressive apparatus to a demilitarized force in the service of citizens. Military ranks disappeared but this measure alone is not enough to improve communication between police and population or inter-ethnic relations within a mixed community. Law no. 360/2002 concerning the Status of Policepersons tries to full a gap between police forces (traditionally composed by ethnic Romanians) and persons belonging to national minorities. Article 10 declares that all persons, irrespective of their race, nationality, sex, religion, wealth or social

origins, who meet the general legal conditions provided for public employees, as well as the special terms listed in the law, shall have access to the entrance examination to the educational institutions of the Ministry of the Interior, as well as to direct employment. Moreover, Article 79 stipulates that in the administrative-territorial units where persons belonging to a national minority represent over 20% of the total population, policepersons who speak the language of the respective minority shall be also hired.

3. 4 Linguistic rights and media

The Audiovisual Law no. 504/2002 underlines that National Audiovisual Council, as guarantor of the public interest in the field of radio and television broadcasting shall ensure “the protection of Romanian culture and language, as well as of the languages and cultures of national minorities”; and shall take measures for the “correct use of the Romanian language and the languages of national minorities.” Article 82 of the law stipulates that in localities where a national minority is larger than 20%, the distributors shall also ensure transmission services for the programmes free to retransmission, in the language of the respective minority. Public TV and Radio at national and local level broadcast programmes in the languages of the largest minorities (Hungarians, Roma; Germans, Ukrainians, etc.). According to Decision no 14/1999 of National Audiovisual Council, TV programmes in other languages than Romanian have to be translated into Romanian by way of subtitles, dubbing or simultaneous translation. The only exceptions to this general rule are music videos and educational programmes for teaching foreign languages.

According to the report “Minority-language broadcasting and legislation in the OSCE”,¹⁷ the access of persons belonging to national minorities to “broadcasts in their own languages across borders is not restricted, and there are no restrictions with regard to particular languages. Bilateral treaties that Romania has concluded with its neighbors (Hungary, Ukraine, Bulgaria, Yugoslavia) have provisions guaranteeing these minorities free and unlimited access to broadcasting, press and electronic networks in their own languages.”

Print and online media in minority languages is free but due to lack of own resources the publications of small minorities are subsidized by State. This situation means that media life of these minorities is dependent on budgetary resources. Association of National Minority Media is a member of Convention of media organization in Romania as well as the Association of Hungarian Journalists in Romania that is the catalyst of Hungarian language media. The major part of regional radio and TV stations, daily and weekly newspapers in Hungarian language in Romania is private.

4. Roma minority

The matter of linguistic rights of Roma deserves a special attention because of specific and complex situation of this national minority. In the last years, it is submitted that both governmental and non-governmental efforts to improve Roma's conditions were intensified. As regards education, Ministry of Education, Research and Youth tries to build a system able to train future teachers belonging to Roma ethnic group, to involve more Roma community in the educational programmes designed in partnership with Roma NGOs and to adapt more its strategies to Roma values, traditions and way of life. Since 1999, there were created special positions for “inspectors on Roma education” as part of each County Board of Education. Although the phrase “affirmative action” is not used by officials, there are special places for Roma children that graduated eight grade, at admission in high-schools and vocational

¹⁷ Tarlach McGonagle, Bethany Davis Noll, Monroe Price, *Minority-language broadcasting and legislation in OSCE*, Institute for Information Law (IViR), Universiteit van Amsterdam, Programme in Comparative Media Law and Policy (PCMLP), Centre for Socio-Legal Studies, Wolfson College, Oxford University, Study commissioned by the OSCE High Commissioner on National Minorities, April 2003. The study is available online at <<http://www.ivir.nl/publications/mcgonagle/minority-languages.pdf>> [visited 24 May 2004]

schools (in 2002 there were 1350 places allocated for Roma children, and in 2003 there were 3000) as well as special places for Roma at admission in universities and colleges (in 2002 there were 393 places, and in 2003 there were 422 special places in 39 universities). The Roma students can work in the same time as teachers of Roma language and Roma history and tradition, in schools, at classes with Roma students. At the request of parents, in 2003-2004 academic year, a number of 15,708 Roma pupils enrolled in the grades I-XIII benefit of an additional Roma curriculum (3-4 classes weekly of Roma language and literature and one class weekly of History and traditions of Roma for the grades VI and VII). Counties Board of Education finance around 300 teacher positions of Roma language and history. Young Roma have started teaching those subjects to more than 18.000 Roma children in September 2003, at the beginning of the academic year. It is worth noting that, for the first time in the Romanian educational system, in September 2003 has been established a class with integral teaching in Roma language, at Măguri School – Lugoj, Timis County. A priority seems to be now the elaboration of more educational materials for Roma: primers and textbooks in Roma language, Romanian – Roma and Hungarian – Roma dictionaries.¹⁸

Although the official data look encouraging, it should not be forgotten that Roma are still facing serious problems in enjoying legitimate rights in every day life. The fact of the matter is that situation of Roma represent already a top European matter and in order to achieve concrete results, national measures must be more effectively doubled by concrete European policies.

5. Conclusions

Romanian experience as regards linguistic rights of national minorities can be described, ultimately, as a positive one. Ten years ago, there were no legal provisions on this matter except the abstract constitutional principle of preservation of linguistic identity. Nowadays, persons belonging to a national minority can rely on a specific legal framework in order to defend their linguistic rights as regards education, public administration and media. On the other hand, it is observable that the degree in which a minority can take advantage of those legal standards depends in a certain extent on its size. A Hungarian may receive education in his mother tongue from kindergarten to university while a person belonging to a small minority may be able only to study his/her mother tongue in schools with tuition in Romanian, because there are not enough requests from the parents and teaching staff in order to establish educational units with tuition in his/her mother tongue. Moreover, media in the languages of small minorities hardly can survive without financial support from the State thus not being in the position to be very critical towards governmental initiatives. In the case of Roma minority there were made steps forward but it is obvious that further measures are needed to put flesh on governmental strategies which look nice on paper but less impressive in the implementation phase.

The main reforms in the national minorities' field, including linguistic policy, have been made in the last ten years and new big legislative changes are not really expected. It may be asserted, however, that three issues are still on the "minority agenda" and wait for a political decision: a framework law on national minorities, ratification of European Charter of Regional or Minority Languages and establishment of a State University with tuition in minority language(es).

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¹⁸ "Ministry's of Education, Research and Youth strategic directions regarding Roma education between 1998 and 2004". The documents is available in English at <<http://www.edu.ro>> [visited on 24 of May].

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Ministry of Education, Research and Youth
"Education in minority languages" webpage
<<http://www.edu.ro/mino.htm>>

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