EU CITIZENSHIP, FREE MOVEMENT AND THE USE OF MINORITY LANGUAGES IN COURT PROCEEDINGS

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This paper explores the impact of the case law of the Court of Justice of the European Union in the context of Union citizenship and internal market free movement law. The starting point is the jurisprudence of the Court of Justice on the right to use minority languages in court proceedings. According to the Court's reasoning, this right should be extended to all mobile Union citizens on equal footing with nationals of the particular Member State granting that right to persons residing in a specific territorial entity of that State. The authors critically evaluate the legal basis of the Court's approach, focusing on the interaction and mutual impact of internal market and citizenship case law. The paper further explores the national regulation of the right to use minority language in court proceedings, as well as the right to interpretation in criminal proceedings, and reveals possible inconsistencies with EU law. In addition, it investigates whether legislative interventions are needed and analyses theoretical and practical aspects of various potential de lege ferenda *solutions.*

Key words: EU citizenship, free movement, internal market, minority languages, Directive 2010/64/EU

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1. INTRODUCTION

The prohibition of discrimination based on nationality is a fundamental principle and a corner stone of the freedom of movement in the EU. The application of this principle in practice leads to far-reaching and sometimes (un)expected consequences as can be observed on the example of the use of a minority language in court proceedings. The latter merits special attention considering that, with the exception of Malta, all EU Member States have at least one minority.[1] Needless to say, with the recent influx of migrants, refugees and asylum-seekers to many Member States, the number of immigrant minority languages is increasing as well. Considering that languages spoken by immigrants are as a rule not protected by legal norms, we shall focus on regional minority languages. Albeit the status of and the right to use minority languages are regulated differently across EU Member States, minority languages are usually limited to certain regions or parts of a country where equal use of a minority and official language is guaranteed in administrative and/or court proceedings, work of representative and executive bodies of local government, education etc. The extent of this guarantee is entirely dependent on national legislation and international obligations of a Member State. However, the right to use minority language is almost exclusively reserved for nationals of that particular Member State, who are members of a national minority and reside in a specific territory of that state. The effect of this rule in a multinational and multilingual setting such as the EU is problematic, especially when it collides with the principle of non-discrimination. The starting point of this paper is the analysis of a judgement of the Court of Justice of the European Union (hereinafter: CJEU) in the case *Rüffer*, C-322/13[2], where the Court interpreted the national rule granting the use of a minority language in civil court proceedings only to nationals of that Member State resident in a particular territorial unit as contrary to the principle of non-discrimination.

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1 As a matter of fact, in the EU-27 there were 191 minorities. Rumania for instance has 18, and Hungary and Poland each 13. See Pan, C., *Die Minderheitenfrage in der Europäischen Union*, Europäisches Journal für Minderheitenfragen vol. II, no. 1, 2009, pp. 20 – 31.

2 Case C-322/13, *Ulrike Elfriede Grauel Rüffer v Katerina Pokorná*, EU:C:2014:189.

2. EU CITIZENSHIP AND FREE MOVEMENT IN THE INTERNAL MARKET: DISCRIMINATION, ANYONE?

The concept of EU citizenship was first introduced in EU law in 1992, by the Treaty on European Union.[3] Its key features are today summarized in Article 20 of the Treaty on the Functioning of the European Union (hereinafter: TFEU).[4] The Union citizenship differs from national citizenship: it is additional to it and does not replace it. Every person holding a nationality of a Member State is a Union citizen. As aptly put by Advocate General Jacobs, "the notion of citizenship of the Union implies a commonality of rights and obligations uniting Union citizens by a common bond transcending Member State nationality".[5] In the rhetoric of the CJEU, "Union citizenship is destined to be the fundamental status of nationals of the Member States, enabling those who find themselves in the same situation to enjoy the same treatment in law irrespective of their nationality, subject to such exceptions as are expressly provided for".[6] The provisions on EU citizenship in the TFEU precede those on fundamental freedoms and other Union policies, emphasizing that they follow different objectives, unrelated to the economic nature of activities associated with the free movement in the internal market. Many doctrinal discussions revolve around the question whether Union citizenship is capable of assuming the primary role determining the legal status of Member States' nationals and grant the Union citizens a wide spectrum of citizenship rights supplanting the fundamental freedoms, which are inextricably linked to economic activities.[7] The current state of affairs, as evident from the jurispru-

3 Treaty on European Union, signed at Maastricht on 7 February 1992, Official Journal of the European Communities, C 191 of 29 July 1992.

4 Treaty on the Functioning of the European Union (Consolidated version 2016), Official Journal of the European Union, C 202 of 7 June 2016.

5 Opinion of Advocate General Jacobs delivered on 19 March 1998, Case C-274/96, *Criminal proceedings against Horst Otto Bickel and Ulrich* Franz, EU:C:1998:115, para. 23.

6 Case 184/99, *Rudy Grzelczyk v Centre public d'aide sociale d'Ottignies-Louvain-la-Neuve*, Judgement of the Court of 20 September 2001, EU:C:2001:458, para. 31.

7 For an overview of the current debates, see, for example, Tryfonidou, A., *The impact of Union Citizenship on the EU's Market Freedoms*, Hart Publishing, Oxford and Portland, Oregon, 2016; Craig, P.; de Búrca, G., *EU Law. Text, Cases and Materials*, 5th ed., Oxford University Press, Oxford, 2011; Shaw, J., *Citizenship: Contrasting dynamics at the interface of integration and constitutionalism*, in: Craig, P.; de Búrca, G. (eds.), *The Evolution of EU Law*, 2nd ed., Oxford University Press, Oxford, 2011, pp. 575 – 610; Kosakopoulou, T., *European Union Citizenship: The Journey Goes on*, in:

dence of the CJEU[8] shows, however, that this potential effect of citizenship is still far from realisation.

Nevertheless, both citizenship and fundamental economic freedoms are built on the principle of non-discrimination based on nationality. Discrimination of nationals of other Member States may be either direct (based on nationality itself) or indirect (based on grounds other than nationality, usually residence, but having the same results[9]). Article 18(1) TFEU clearly prohibits *any* discrimination on grounds of nationality, within the scope of application of the Treaties, and without prejudice to any special provisions contained therein. Any difference in treatment which is based on objective factors unrelated to nationality could potentially serve as justification, provided that the requirement of proportionality is satisfied.[10] Therefore, Union citizenship and economic freedoms arise from identical premise of equal treatment based on nationality, and their mutual interaction brings about evolution in both fields.

Ott, A.; Vos, E. (eds.), *Fifty Years of European Integration: Foundations and Perspectives*, T.M.C. Asser Press, The Hague, 2009, pp. 271 – 290; Lenaerts, K., *'Civis europaeus sum': from the cross-border link to the status of citizen of the Union*, FMW – Online Journal on free movement of workers within the European Union, No 3, December 2011, Publications office of the European Union, pp. 6 – 18.

8 Especially in relation to access of EU citizens to social benefits in another Member State. See for example, case C-140/12, *Pensionsversicherungsanstalt v Peter Brey*, EU:C:2013:565; case C-313/13, *Elisabeta Dano and Florin Dano v Jobcenter Leipzig* EU:C:2014:2358; case C-67/14, *Jobcenter Berlin Neukölln v Nazifa Alimanovic and Others*, EU:C:2015:597; case C-299/14, *Vestische Arbeit Jobcenter Kreis Recklinghausen v Jovanna García-Nieto and Others*, EU:C:2016:114. See also a line of case law concerning the so-called 'purely internal situations', where the absence of any cross-border element prevents the application of EU law, unless the national measure has the effect of depriving the Union citizen of genuine enjoyment of the substance of the rights associated with that status, or of impeding the exercise of the right to move and reside freely within the territory of the Member States: Case C-434/09, *Shirley McCarthy v Secretary of State for the Home Department*, EU:C:2011:277, paras. 49-50; Case C-256/11, *Murat Dereci and Others v Bundesministerium für Inneres*, EU:C:2011:734, paras. 64-66; Case C-87/12, *Kreshnik Ymeraga and Others v Ministre du Travail, de l'Emploi et de l'Immigration*, EU:C:2013:291, para. 42; Case C-304/14, *Secretary of State for the Home Department v CS*, EU:C:2016:674, paras. 29-32; Case C-165/14, *Alfredo Rendón Marín v Administración del Estado*, EU:C:2016:675, paras. 71-78; Case C-115/15, *Secretary of State for the Home Department v NA*, EU:C:2016:487, para. 72.

9 See, for example, case C-237/94, *John O'Flynn v Adjudication Officer*, EU:C:1996:206, Judgement of the Court of 23 May 1996 and case law cited therein.

10 See to that effect, Craig, P.; de Búrca, G., EU Law ..., *op. cit.* (fn. 7), pp. 828 – 829.

The CJEU is a catalyst for these developments. In Shaw's words, the CJEU has enthusiastically led the way and often used the concept of EU citizenship to push forward its free movement and non-discrimination case law in sometimes unforeseeable directions.[11] The combination of citizenship and free movement is especially evident in the case law on the right to use minority languages in court proceedings.

3. EU CITIZENSHIP AND MINORITY LANGUAGES: CASE LAW ANALYSIS

The two seminal judgements in this area seemingly slipped under the radar of most theoretical analyses and unwittingly became 'good law' and a solid reference. More recent is the case *Rüffer* concerning language rules applicable to civil proceedings. The other judgement was rendered in the case *Bickel and Franz*[12] concerning language rules applicable to criminal proceedings.

The Court's judgement in *Rüffer* was rendered on 27 March 2014, and it is relatively short and simple.[13] The case originated from a preliminary reference[14] made by the *Landesgericht Bozen* (County court of Bolzano, Italy) under Article 267 TFEU, in proceedings between Ms Grauel Rüffer and Ms Pokorná concerning an action for damages following a skiing accident. Ms Grauel Rüffer was a German national domiciled in Germany, who was injured in a skiing accident in the Province of Bolzano. Claiming that the fall was caused by Ms Pokorná, a Czech national resident in the Czech Republic, Ms Grauel Rüffer sought compensation from her for the damage sustained before the competent court in Bolzano. The notice of proceedings, drafted in German language, was translated into Czech language. Having received the Czech translation, Ms Pokorná submitted her defence in German language as well, raising no objection as to the choice of German as the language of the case.

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[11] See Shaw, J., *op. cit*. (fn. 7), pp. 587 – 588.

[12] Case C-274/96, *Criminal proceedings against Horst Otto Bickel and Ulrich Franz*, EU:C:1998:563.

[13] In accordance with Article 20(5) of the Statute of the Court of Justice of the European Union, the case was decided without the submission of Advocate-General's opinion, since it was determined that it raises no new point of law.

[14] In most simple terms, preliminary reference is a procedure involving co-operation between the Court of Justice and national courts, whereby the Court of Justice is competent to give preliminary rulings concerning interpretation of the Treaties and the validity and interpretation of acts of institutions, bodies, offices or agencies of the Union, upon request of national courts. See Article 267 TFEU.

It is important to note that under the Italian Code of Civil Procedure, the Italian language is to be used in all proceedings. Documents that do not comply with the rules as to the form may be declared invalid, but not if they achieve the object for which they were intended. Under the Decree of the President of the Republic No 670/1972, the German language may be used in court in the Province of Bolzano in criminal, civil and administrative law proceedings. Further provisions of this Decree stipulate that German-speaking citizens of the Province of Bolzano may use their own language in relations with the courts and with the organs and offices of public administration situated in the Province or which have regional responsibilities, as well as with public service contractors who provide public services in the Province. Decree of the President of the Republic No. 574/1988 prescribes that in civil proceedings each party shall have the right to choose the language in which he drafts his documents. The proceedings shall be monolingual if the document instituting the proceedings and the defence or equivalent documents are drafted in the same language. However, in a judgment delivered on 22 November 2012 (Judgement No. 20715) the *Corte suprema di cassazione* held that the provisions of the Presidential Decree No. 574/1988 applied only to Italian citizens residing in the Province of Bolzano. In other words, if the referring court (i.e. court requesting a preliminary reference ruling) was to interpret the relevant provisions in accordance with the judgement of the *Corte suprema di cassazione*, it would have had to declare both the application and defence invalid, since neither was submitted by an Italian citizen residing in the Province of Bolzano. The referring court was therefore in doubt whether EU law, specifically provisions of Articles 18 and 21 TFEU preclude the application of national rules granting the right to use German language in civil proceedings before the courts in the Province of Bolzano only to Italian citizens domiciled in that Province.

In its answer, the Court (unsurprisingly) invoked its prior decision in case Bickel and Franz. In the latter judgement[15] the Court interpreted the same TFEU provisions, holding that the right conferred by national rules to have criminal proceedings conducted in a language other than the principal language of the state concerned falls within the scope of EU law. Thus, if language rules allow nationals of that State who reside in a particular geographic entity to choose a certain language in criminal proceedings, the same right should be conferred on nationals of other Member States travelling or stay-

[15] Case C-274/96, *op. cit.* (fn. 12), Judgement of the Court of 24 November 1998.

ing in that area, whose language is the same.[16] The considerations from *Bickel and Franz* were extended in *Rüffer* to apply to all judicial proceedings brought within that territorial entity, including civil proceedings. The main argument basically boiled down to stating the obvious that if it were otherwise, Union citizens would be treated less favourably, depending on their domicile, which is contrary to the principle of non-discrimination.

In other words, this is a pure and simple case of discrimination. By limiting the choice of language of the proceedings only to Italian citizens residing in the province in question, other EU citizens, irrespective of their place of residence, hence even Italian citizens residing in other territories of that same State, or in other Member States, would be placed in a less favourable position. Although the Court based its decision primarily on the principle of non-discrimination, there is another angle to be read into the Court's interpretation. This rule directly obstructs one of the defining features of EU citizenship: free movement. Mobile EU citizens are bound to seize any opportunity there is in order to simplify the realisation of their rights. It is interesting to note that the factual background in both *Bickel and Franz* and *Rüffer* cases involved EU citizens who were exercising fundamental economic freedoms in the internal market (i.e. from what can be inferred, free movement of persons and services)[17], but the Court nevertheless based its reasoning on a more wider freedom of movement for all EU citizens, which applies regardless of any economic activity.[18]

This case law development is a clear evidence of mutual influence of citizenship and internal market freedom of movement case law. Namely, the judgement (and especially the opinion of Advocate General) in case *Bickel and Franz* contains several references to the case *Mutsch*[19], a pre-citizenship case in-

[16] Note that in case of criminal proceedings all suspected and accused persons within the EU have a right to interpretation and translation free of charge by virtue of Directive 2010/64/EU, as shall be discussed in more detail later on.

[17] Mr Franz and Ms Rüffer were tourists; Mr Bickel a lorry driver.

[18] Freedom of movement and residence of Union citizens is subject to the limitations and conditions laid down in the Treaty and in secondary legislation, the most important being the Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158/77 of 30 April 2004), which applies both to economically active and economically inactive EU citizens and their family members.

[19] Case 137/84, *Criminal proceedings against Robert Heinrich Maria Mutsch*, EU:C:1985:335.

volving the right of a migrant worker, a Luxembourg national, to use German as the language of criminal proceedings conducted against him in a German-speaking municipality in Belgium. The Belgian authorities tried to deny him that right, claiming that it was reserved only for Belgian nationals residing in that municipality. Since the case precedes the introduction of EU citizenship, the legal basis for the Court's decision establishing discrimination was found in the Treaty provisions and secondary legislation on the free movement of workers.[20] Case *Rüffer*, on the other hand, relies exclusively on Article 18 and 21 TFEU (prohibition of discrimination based on nationality and free movement of EU citizens), even though, strictly speaking, Ms Rüffer was also exercising one of the fundamental economic freedoms at the time she suffered an accident resulting in the instigation of proceedings (she visited the area as a tourist).

However, national policies and rules regarding the right to use minority languages are drafted and implemented without the slightest consideration of EU citizenship. This was the main argument that the Italian Government brought forward in defence of the limited application of the language rules. Both in *Bickel and Franz* and in *Rüffer*, the Italian Government argued that the right to use the ethnic and cultural minority language is specifically designed to meet the needs of the ethnic and cultural minorities living in a certain area, and that there is no need to extend this right to persons who are present in that area on an infrequent and temporary basis[21], such as mobile EU citizens exercising their right to free movement. There are other available measures which guarantee that such persons will be able to exercise their procedural rights, even when they are not familiar with the official language of the host state. The Court was quick to dismiss this argument as contrary to the principle of non-discrimination, because the rule unduly favours nationals of the host Member State by comparison with nationals of other Member States exercising their right to free movement. Since both cases involved indirect discrimination based on residence requirement, the Court went on to examine

[20] The right to use German language in proceedings before the courts of the Member State in which the migrant worker resides, under the same conditions as national workers, was found to fall within the meaning of the term 'social advantage' as used in Article 7(2) of Regulation No. 1612/68, according to which a worker who is national of another Member State is entitled, in the host Member State, to the same social and tax advantages as national workers. See Judgement of the Court of 11 July 1985 in case *Mutsch*, para. 17.

[21] Case *Rüffer*, *op. cit.* (fn. 2), para. 22; case *Bickel and Franz*, *op. cit.* (fn. 12), para. 21.

whether there are possible justifications for the difference in treatment. Only objective considerations unrelated to the nationality of the persons concerned, which are proportionate to the legitimate aim of the national provisions could serve as justification. The Italian Government in *Rüffer* brought forward two arguments against the application of the language rule to all EU citizens: the first concerned organisational issues in connection with the conduct of the proceedings, and the second the financial aspects of such practice.[22] The Court rejected both, without even proceeding to assess the proportionality of the measure. As regards the first argument, there was no evidence that the courts in the Province of Bolzano would be faced with cumbersome consequences in terms of organisation and time limits. Quite the contrary, the referring court undeniably confirmed that the judges are perfectly able to conduct judicial proceedings in either Italian or in German, or in both languages.[23] Regarding the extra costs which would be incurred by the Member State concerned if language rules were to be applied to all EU citizens, the Court noted that the aims of a purely economic nature cannot constitute pressing reasons of public interest justifying the restriction of a fundamental freedom guaranteed by the Treaty.

4. DIVISION OF COMPETENCES: A MINOR(ITY) ISSUE?

In our opinion, the implications of the discussed reasoning and case law in Member States which recognize equal right to use minority and official language in court proceedings are far reaching, at least in theory. According to this case law, official minority language may be used by all EU citizens, even though they are not considered as members of a minority. Quite the opposite: where they come from, they are probably members of a 'majority' population. Since the EU policy fosters 'zero tolerance' towards any form of discrimination of EU citizens[24], they will be able to benefit from the official status and use of a minority language before competent authorities in a particular territory of that Member State.

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22 Case *Rüffer*, *op. cit.* (fn. 2), para. 24 – 25.

23 *Ibid*., para. 24.

24 That said, this statement does not apply to the situations of the so-called 'reverse' discrimination, nor to the exclusion of some categories of EU citizens (primarily economically inactive) from social entitlements in the Member State of residence.

The status of minority languages is a matter of internal competences of the EU Member States. This means that the Member States and not the EU have the competence to regulate this issue. Albeit the respect for the rights of persons belonging to national minorities is one of the fundamental values on which the European Union is founded[25], and the Union respects its "rich linguistic and cultural diversity"[26], nothing beyond the mere proclamation of these values falls within the sphere of the EU competences. It is important to emphasize that the Court clearly did not extend the right to use minority language to another Member State or its territorial entity, where it does not enjoy the status of a minority language in official use. There is no explicit right to use minority language enshrined in the Treaties.[27] Whether an EU citizen will have access to courts in another Member State, or access to other official bodies using a language of a certain minority in that State (which is actually his/her native language; and presumably, majority language in his/her state of origin) depends on the regulation of protection of minorities and minority languages in a particular Member State. Nevertheless, Member States must take efforts not to violate the principle of non-discrimination in the application of their respective legislations in this regard. In a similar vein, Member States should avoid discriminating between their nationals and non-nationals who are EU citizens.

4.1. International instruments for the protection of minorities in the EU Member States

The majority of Member States adhere to international conventions and other instruments guaranteeing the protection of minorities, meaning that this issue is regulated by national legislation, which applies and implements inter-

[25] Article 2 Treaty on European Union (hereinafter: TEU) (Consolidated version 2016), Official Journal of the European Union, C 202 of 7 June 2016.

[26] Article 3(3)(4) TEU.

[27] The term 'minority' itself has been introduced into EU primary law with the Treaty of Lisbon in 2009 (Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007, Official Journal of the European Union, C 306 of 17 December 2007). Article 24 TFEU provides that every citizen of the Union may write to any EU institution or body in one of the languages of the Treaties, i.e. any of 24 *official* languages of the EU, regional or minority languages excluded. See more on this issue in Dubos, O.; Guset, V., *European Law and Regional or Minority Languages*, in: Ippolito, F.; Iglesias Sánchez, S. (eds.), *Protecting Vulnerable Groups. The European Human Rights Framework*, Hart Publishing, Oxford and Portland, Oregon, 2015, pp. 115 – 140.

national commitments and standards of protection. Among the most important international instruments which guarantee the protection of minorities are the UN International Covenant on Civil and Political Rights (hereinafter: ICCPR)[28], UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities[29], Council of Europe Framework Convention for the Protection of National Minorities[30], Council of Europe European Charter for Regional or Minority Languages[31], etc.[32] None of these instruments define the term 'national minority' or 'linguistic minority'.[33] The

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

[29] Article 5(1) of the Declaration: "National policies and programmes shall be planned and implemented with due regard for the legitimate interests of persons belonging to minorities."

[30] Article 5(1) of the Framework Convention: "The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage." Article 10(1) of the Framework Convention: "The Parties undertake to recognise that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally and in writing." According to Gorter and Cenoz, the Framework Convention is not completely satisfactory because it was drafted with a lot of compromises between different views of the Member States, while its provisions add little to the existing international law. See Gorter, D.; Cenoz, J., *Legal Rights of Linguistic Minorities in the European Union*, in: Tiersma, P. M.; Solan, L. M. (eds.) *The Oxford Handbook of Language and the Law*, Oxford University Press, Oxford, 2016, pp. 261 – 272, p. 267. See also Gorter, D., *Minorities and Language*, in: Brown, K., *Encyclopedia of Language and Linguistics*, 2nd ed., (ELL2), Elsevier, London, 2006, pp. 156 – 159.

[31] Out of 28 EU Member States, 17 have ratified the Charter and 3 have signed, but not yet ratified it. In Croatia, the Charter has been in force since 1 March 1998 (Narodne novine, Međunarodni ugovori, No. 18/97). The work of the Council of Europe is probably most important for the protection of linguistic rights in Europe. The Charter has been drafted over a long period of time with recommendations from the Parliamentary Assembly of the Council of Europe and the European Parliament (see Gorter and Cenoz, *op. cit.* (fn. 28), p. 265).

[32] For an overview of international and domestic instruments protecting the equal right to use minority languages in Croatia, see Petričušić, A., *Ravnopravna službena uporaba jezika i pisma nacionalnih manjina: Izvori domaćeg i međunarodnog prava*, Zagrebačka pravna revija, vol. II, no. 1, 2013, pp. 11 – 39.

[33] For a detailed elaboration on this issue, see Petričušić, A., *The Rights of Minorities in International Law: Tracing Developments in Normative Arrangements of International Or-*

latter task is left to the individual states, which are responsible for the protection of national minorities.[34] Note that being recognised as a national minority does not automatically entail recognition of the right to official use of a minority language. For example, the European Charter for Regional or Minority Languages obliges its parties to recognise the right of every person belonging to a national minority to use freely and without interference his or her minority language, in public and private, orally and in writing.[35] Only in areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, where such persons so request and the request corresponds to a real need, the states "shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities".[36] In criminal proceedings, the obligation of the state is to ensure that a person belonging to a national minority is informed of the reasons for accusation or arrest in a language he or she understands, has a right to defence in this language and a free assistance of the interpreter.[37] There is no corresponding guarantee in civil proceedings, however. As defined by the Charter, "regional or minority languages" are languages traditionally used within a given territory of a state by nationals of that state who form a group numerically smaller than the rest of the state's population; they are different from the official language(s) of that state, and they include neither dialects of the official language(s) of the state nor the languages of migrants.[38]

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ganizations, Croatian International Relations Review, vol. XI, no. 38/39, 2005, pp. 47 – 58.

34 The Preamble to the Croatian Constitution, for example, enumerates national minorities in Croatia, establishing that Republic of Croatia is "the nation state of the Croatian nation and the state of the members of its national minorities: Serbs, Czechs, Slovaks, Italians, Hungarians, Jews, Germans, Austrians, Ukrainians, Rusyns, Bosniaks, Slovenians, Montenegrins, Macedonians, Russians, Bulgarians, Poles, Roma, Romanians, Turks, Vlachs, Albanians and others who are its citizens…"

35 Article 10(1) European Charter for Regional or Minority Languages.

36 Article 10(2) European Charter for Regional or Minority Languages.

37 Article 10(3) European Charter for Regional or Minority Languages.

38 Article 1(a)(i) European Charter for Regional or Minority Languages. Some scholars draw a distinction between the term language minority and minority languages. While the former refers to the social group or community, the latter refers to a specific category of languages, also called lesser-used languages (see Gorter, D., *op. cit.* (fn. 28)).

4.2. Use of language and the right of defence: A (limited) EU legal framework

Given the above considerations, let us imagine a situation in which an EU citizen of German nationality, for example, is a party in court proceedings in another Member State, for example, Croatia. Germans are one of the 22 national minorities in Croatia. Alas, German is not a minority language in official use in Croatia (i.e. any of its territorial entities). If he were involved in a civil proceeding, whether as a claimant or respondent, his only option would be to use a court interpreter.

However, the status of our German friend would be better (at least language-wise), if he were accused with a criminal offence in Croatia. In that case, he would have had a right to free assistance of a court interpreter. Adhering to Article 6 of the European Convention on Human Rights[39], each Member State guarantees a right to a fair trial, including both civil and criminal matters.[40] As a specific guarantee under the right of defence, anyone charged with a criminal offence shall have a right to a free assistance of an interpreter, if he cannot understand or speak the language used in the court.[41] However, there is another instrument at EU level facilitating the application of the right to a fair trial enshrined in Article 6 of the European Convention on Human Rights and Article 47 of the Charter of Fundamental Rights of the EU and the respect of the right of defence from Article 48(2) of the Charter of Fundamental Rights of the EU.

This instrument is the Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings.[42]

In particular, it is interesting to explore whether the latter Directive could serve as an alternative to the approach adopted in the discussed judgments in *Rüffer* and *Bickel and Franz* cases. At first glimpse, it is evident that the Directive does not aim at improving the status of linguistic minorities. As a

[39] Zakon o potvrđivanju Konvencije za zaštitu ljudskih prava i temeljnih sloboda i Protokola br. 1., 4., 6., 7. i 11. uz Konvenciju za zaštitu ljudskih prava i temeljnih sloboda, Narodne novine, Međunarodni ugovori, No. 18/97.

[40] European Court of Human Rights, *Guide on Article 6 of the European Convention of Human Rights. Right to a fair trial (civil limb)*. Available at: http://www.echr.coe.int/Documents/Guide_Art_6_ENG.pdf. (Accessed: 1 September 2016).

[41] Article 6(3)(e) European Convention on Human Rights.

[42] Directive 2010/64/EU of the European Parliament and of the Council on the Right to Interpretation and Translation in Criminal Proceedings of 20 October 2010, Official Journal of the European Union, L 280/1 of 26 October 2010.

background note, Directive 2010/64/EU, also known as the roadmap directive, was adopted in light of the growing mobility of EU citizens and the enlargement of the EU which increased the number of criminal proceedings involving EU citizens, that is, nationals of one Member State who are suspected or accused of committing a crime in another State. In response to an increased need for court interpreting, the Commission proposed the first legislative instrument in the field of criminal law, namely Directive 2010/64/EU which was adopted by the European Parliament and the Council on 20 October 2010. The legal base for the Directive 2010/64/EU is found in Article 82(2) TFEU, i.e. in the area of freedom, security and justice. Its primary aim is to increase confidence in criminal justice systems of all Member States, which leads to more efficient judicial cooperation and mutual recognition of judgements in criminal matters having a cross-border dimension.[43]

The deadline for its transposition by the Member States was 27 October 2013. As an instrument of secondary law, directives must be transposed into national legislation, whereas the Member States have the choice of the form and method by means of which the result of a directive is to be achieved. This is important to emphasize since the Directive has been transposed into Member States to a varying degree. While some states took great effort to raise the standards of protection provided for by the Directive such as Germany, others are still struggling to meet the minimum standards imposed by the Directive.[44] In a similar vein, recent case law of the CJEU has made the point that Directive 2010/64 laid down only minimum rules, while the Member States are entitled to provide a higher level of protection, "also in situations not explicitly dealt with in that directive".[45]

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43 Recitals 3 and 4 of the Preamble of the Directive 2010/64/EU.

44 As stated in our earlier research, the wording of the Directive is sometimes vague or unclear, thus calling for caution by the Member States when implementing the Directive. Furthermore, even basic concepts such as *criminal proceedings* are not defined in the Directive, but is, instead, to be interpreted in the light of the European Court of Human Rights case law. On the other hand, the meaning of *essential documents* which played an important role in the *Covaci* case, is circumscribed as follows: 'any decision depriving a person of his liberty, any charge or indictment and any judgment' (Art. 3 (2)), albeit paragraph 3 of the same Article authorizes the competent authority to decide whether any other document is to be deemed essential in a given case. This view has been upheld in the *Covaci* case. See Bajčić, M., *The Way Forward for Court Interpreting in Europe*, in: Šarčević, S. (ed.), *Language and Culture in EU Law. Multidisciplinary Perspectives*, Ashgate, Surrey, 2015, pp. 219 – 239, 220 – 221.

45 Case C-216/14, *Criminal proceedings against Gavril Covaci*, EU:C:2015:686.

The *Covaci* case is so far the first case referred to the CJEU in regard to the Directive 2010/64/EU, although it concerned another roadmap directive too, namely Directive 2012/13/EU on the right to information in criminal proceedings[46], whose aim is enabling preparation of defence and safeguarding fairness of the proceedings.

The facts of the case are as follows. A Romanian national was charged in Germany with driving without mandatory motor insurance. In view of the fact that he was charged with a minor offence, the public prosecutor asked the local court (Amtsgericht Laufen) to issue a *Strafbefehl* (penalty order) without holding a hearing or trial and to impose a fine on Mr Covaci. German law did not provide for a free translation of a written appeal against the penalty order. In this context it should be mentioned that the Directive 2010/64/EU does apply to appeals before courts following the imposition of sanctions for minor offences (Art. 2(2): during appeal or any other procedural application), although interpreters are not required to be present in cases of minor offences such as traffic offences. As foreseen by German national legislation, once the penal order has been served, an objection can be filed within a two-week period. In case a person does not have a fixed German address, he or she must appoint someone with residence in the territory of the Federal Republic of Germany. Before issuing the penal order, Amtsgericht Laufen referred two questions to the CJEU. Firstly, Amtsgericht Laufen was uncertain about the conformity of the German law with Directive 2010/64/EU (in regard to the fact that an objection must be made in German): "Are Articles 1(2) and 2(1) and (8) of Directive 2010/64 to be interpreted as precluding a court order that requires, under Paragraph 184 of the Law on the judicial system, accused persons to bring an appeal only in the language of the court, here in German, in order for it to be effective?" Secondly: "Are Articles 2, 3(1)(c) and 6(1) and (3) of Directive 2012/13 to be interpreted as precluding the accused from being required to appoint a person authorised to accept service, where the period for bringing an appeal begins to run upon service on the person authorised and ultimately is it irrelevant whether the accused is at all aware of the offence of which he is accused?" In other words, Amtsgericht Laufen had doubts as to the compatibility of the obligations imposed on individuals, non-residents of Germany, to appoint a person with a fixed German address to receive the documents to be

[46] Directive 2012/13/EU of the European Parliament and the Council on the right to information in criminal proceedings of 22 May 2012, Official Journal of the European Union, L 142/1 of 1 June 2012.

served with Directive 2012/13/EU on the right to information. As a result of this requirement, the documents could reach the suspect after two weeks, thus robbing the suspect of the possibility to file a timely objection.

As regards the first question, it must be borne in mind that Directive 2010/64/EU is vague in its provisions about the necessity to translate essential documents. Basically, whether a certain document is to be considered essential and thus warrants written or oral translation, is left to the Member States to decide. CJEU said that Articles 1 to 3 of Directive 2010/64 must be interpreted as not precluding national legislation.[47] With respect to the second question, CJEU held that the Directive 2012/13/EU does not preclude legislation that obliges someone not residing in its territory to appoint someone on whom the documents may be served, as long as the accused person actually has the full period prescribed for filing an objection.[48] In any event, the CJEU makes it clear that Member States should avoid discriminating between persons having a fixed address on their territory and those who don't, and to whom the detrimental method of calculating the two-week period would be applied.

Since both mentioned Directives concern criminal proceedings, *Rüffer*-type of cases could never fall under this category. As far as the *Bickel and Franz* case is concerned, given that it involves criminal offences, it is evident that the accused would be in a much better position invoking the right to use official minority language, if the circumstances so allow. In that case, the proceedings would be conducted in that language, thus avoiding any potential un-

47 The CJEU said that "Articles 1 to 3 of Directive 2010/64 must be interpreted as not precluding national legislation, such as that at issue in the main proceedings, which, in criminal proceedings, does not permit the individual against whom a penalty order has been made to lodge an objection in writing against that order in a language other than that of the proceedings, even though that individual does not have a command of the language of the proceedings, provided that the competent authorities do not consider, in accordance with Article 3(3) of that directive, that, in the light of the proceedings concerned and the circumstances of the case, such an objection constitutes an essential document." Case *Covaci*, *op. cit.* (fn. 43), Judgement of the Court of 15 October 2015, para. 51.

48 "...Articles 2, 3(1)(c) and 6(1) and (3) of Directive 2012/13 must be interpreted as not precluding legislation of a Member State, such as that at issue in the main proceedings, which, in criminal proceedings, makes it mandatory for an accused person not residing in that Member State to appoint a person authorised to accept service of a penalty order concerning him, provided that that accused person does in fact have the benefit of the whole of the prescribed period for lodging an objection against that order." Case *Covaci*, *op. cit.* (fn. 43), Judgement of the Court of 15 October 2015, para. 68.

certainties regarding the implementation and interpretation of the Directive 2010/64/EU.

It is possible, however, that national courts in criminal proceedings involving a cross-border element would be more inclined towards adhering to national laws implementing Directive 2010/64/EU, disregarding that there may be a minority language in official use before that particular court. As a result, all minimum guarantees forming part of a right of defence would be satisfied. Nevertheless, the right to use minority language as a right derived from EU citizenship is broader and possibly more straightforward, since it alters the language of the proceedings itself, and does not just facilitate the method of communication with the court (i.e. with the aid of court interpreter). Also, let us not forget that the CJEU case law interpreting the Directive 2010/64/EU is still very limited, whereas further clarifications are to be expected.

5. PRACTICAL IMPLICATIONS OF THE *RÜFFER* JUDGEMENT: THE CROATIAN EXAMPLE

In order to avoid similar cases of the above discussed clashes between national and EU law, it is of paramount importance that national legislators start to take into account the implications of EU citizenship and in particular the principle of free movement with all its ramifications in their regulation of the right to use minority languages. The challenges faced by the Member States in this pursuit are clarified on the example of Croatia.

5.1. *De lege lata*

Croatian legislation and practice may serve as a textbook example to explain the potential consequences of the *Rüffer* judgement in practice. The Croatian Constitution guarantees that in individual local units, another language and Cyrillic or some other script may be introduced in official use together with the Croatian language and Latin script under conditions specified by law.[49] Croatia has ratified the Framework Convention for the Protection of National Minorities[50] and the European Charter for Regional or Minority Languages.[51]

[49] Article 12(2) Constitution (Ustav Republike Hrvatske, Narodne novine, Nos. 56/90, 135/97, 113/00, 28/01, 76/10 and 5/14).

[50] Zakon o potvrđivanju Okvirne konvencije za zaštitu nacionalnih manjina, Narodne novine, Međunarodni ugovori, No. 14/97.

[51] In Croatia, the Charter has been in force since 1 March 1998, Narodne novine, Međunarodni ugovori, No. 18/97.

Under Article 12 of the Constitutional National Minority Rights Act[52], equality in the official use of a minority language and script shall be exercised in the territory of a local self-government unit in which the members of a national minority compose a minimum of one third of the population; or when so envisaged in international treaties to which the Republic of Croatia is a party or stipulated in the statutes of a local or regional self-government unit, pursuant to the provisions of special legislation on the use of minority languages and scripts in the Republic of Croatia. Under the Act on the Use of Language and Script of the National Minorities in the Republic of Croatia[53], equal official use of language and script of national minority on the territory of a municipality, city or county shall be implemented in the work of representative and executive bodies of a given territorial unit, procedure before administrative authorities of that territorial unit, procedure before state administrative bodies of first instance, judicial authorities of first instance, public prosecution offices of first instance, public notaries and legal persons with public authorities in that territorial unit. According to the data of June 2013, minority language is in official use in 55 local units, out of which members of a particular minority comprise more than 1/3 of population in 27 local units, and in 28 local units official equal use of minority language is guaranteed in the statute of the local unit.[54]

Our focus here is put on the right to use minority language in national court proceedings of first instance. All judicial authorities of first instance are required to inform the party *from the territory of city or municipality* which has introduced official use of a minority language that he/she has a right to use

[52] Ustavni zakon o pravima nacionalnih manjina, Narodne novine, Nos. 155/02 47/10, 80/10, 93/11 and 93/11.

[53] Zakon o uporabi jezika i pisma nacionalnih manjina u Republici Hrvatskoj, Narodne novine, Nos. 51/00, 56/00 and 155/02.

[54] Fourth report submitted by Croatia pursuant to Article 25, Paragraph 2 of the Framework Convention for the Protection of National Minorities, ACFC/SR/IV(2014)012, Strasbourg, 11 September 2014. Available at: https://pravamanjina.gov.hr/UserDocsImages/dokumenti/%c4%8cetvrto%20izvje%c5%a1%c4%87e%20o%20provedbi%20Okvirne%20konvencije%20%20za%20za%c5%a1titu%20nacionalnih%20manjina.pdf (Accessed: 20 June 2016). This is especially true of Italian language in some municipalities in the Istria County, where the population of Italian minority amounts to even less than 5 %. This is also one of the most prosperous tourist regions, in close vicinity to Italy and with many visiting Italian tourists, which allows parallels to be drawn with the case *Rüffer*.

that language, while the option chosen by the party will be officially recorded.[55] From the exact wording of this provision, it is clear that only parties *domiciled* in the territory of a local unit which grants the right of official use of a minority language are entitled to use that language. This provision directly contravenes the interpretation provided by the CJEU in *Rüffer* and *Bickel and Franz*. As a matter of fact, the wording of the Croatian provision echoes the gist of the provision of the Italian Presidential Decree from the *Rüffer* case.[56] However, unlike the situation in the *Rüffer* case, where a provision of the Presidential Decree was also interpreted to this effect by the Italian *Corte suprema di cassazione*[57], in Croatia there is no specific case law either applying or interpreting this provision. The Croatian judiciary is traditionally inclined towards formalistic and grammatical interpretation of legal norms, that is, to strict adherence to the letter of the law.[58] The courts may find that the only way for this provision to be applied in conformity with the CJEU case law is to read it *contra legem*, which is not permissible. Even if, when faced with a dilemma, a Croatian court were to refer a preliminary reference to the CJEU, thus questioning the compatibility of the Croatian provision with the EU law, the CJEU would likely rule by issuing a reasoned order[59], referring to its earlier case law in view of the fact that an identical question had already been answered in the *Rüffer* judgement.

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55 Article 12(1) Act on the Use of Language and Script of National Minorities in the Republic of Croatia.

56 Art. 100 of the Presidential Decree No 670/1972 reads as follows: "I *cittadini di lingua tedesca della provincia di Bolzano* hanno facoltà di usare la loro lingua nei rapporti cogli uffici giudiziari e con gli organi e uffici della pubblica amministrazione situati nella provincia…"

57 For a critical overview of this decision, see Hofmeister, H., *La giurisprudenza della Corte di giustizia dell'ue sulla lingua processuale dinanzi ai tribunali altoatesini. Un'analisi del caso Grauel Rüffer*, Osservatorio sulle fonti, fasc. 1/2016. Available at: http://www.osservatoriosullefonti.it/archivi/archivio-saggi/speciali/speciale-convegno-prin-2010-11-bolzano/986-osf-1-2016-hofmeister/file (Accessed: 19 June 2016).

58 See for example, the analysis of the capacity of the Croatian judiciary to apply EU equality law in Bodiroga-Vukobrat, N.; Martinović, A., *Croatia's Accession in the Light of Gender Equality*, European Gender Equality Law Review, vol. I, no. 1, 2013, pp. 5 – 16.

59 Article 99, Consolidated version of the Rules of Procedure of the Court of Justice of 25 September 2012. Available at: http://curia.europa.eu/jcms/upload/docs/application/pdf/2012-10/rp_en.pdf (Accessed: 29 November 2016).

5.2. *De lege ferenda*: Counterbalancing Free Movement and the Protection of Linguistic Minorities

Therefore, the best way to effectively remedy this situation is to amend the law accordingly. This can be achieved by simply deleting the part of the sentence "from the territory of city or municipality that has introduced official use of a minority language and script". The real question is, whether it is realistic to expect any amendments of this kind in the near future. There are multifold reasons for this scepticism. First, national policies for the protection of minorities and the use of minority languages in general are not easily conceived in the context of the free movement of EU citizens. Rather, they are mostly framed in line with the international commitments and instruments ratified by a certain state. The overriding purpose of those instruments is first and foremost to protect cultural heritage and diversity.[60] It is difficult to reconcile the idea of protection of a national, ethnic, cultural or linguistic minority on the one hand, with a pure and simple notion of free movement of EU citizens, on the other. The essence and the purpose of the provisions regulating these two fields are entirely different. It may seem as though the legislation for the protection of national minorities becomes a tool to enhance mobility for the sake of mobility *per se*, without any link with the real purpose of that legislation. Thus, 'majority' language of one Member State could become the official language of the proceedings in another Member State (in which it is a minority language). Any other measure[61], which might be in place to ensure that a person who is not familiar with the language of the proceedings will be able to exercise his or her procedural rights, becomes redundant. However, one may argue that the freedom of movement and non-discrimination is guaranteed to all EU citizens, whether they are members of a minority community or not. Therefore, the principle of non-discrimination could be viewed as a bridge binding these provisions.

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[60] For example, European Charter for Regional or Minority Languages is a convention designed on the one hand to protect and promote historical regional and minority languages as a threatened aspect of Europe's cultural wealth and traditions; and on the other hand to promote the right to use a regional or minority language in private and public life as an inalienable right conforming to the principles embodied in the United Nations International Covenant on Civil and Political Rights, and according to the spirit of the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms (Preamble).

[61] Primarily, the help of court interpreters. However, the party has to bear the cost of such interpretation in advance and ensure translation of all documents, petitions and motions.

Secondly, in the Croatian context, the actual usage of this right is only marginal. According to the available data, in 2012, there were 487 proceedings conducted before municipal courts and courts of minor offences in which the parties were informed of their right to use minority language. In only two instances the parties opted for a minority language as the language of proceedings (in both cases the Italian language).[62] Out of 338 cases in 2011, three were conducted in a minority language (again, Italian language).[63] It would seem that the trend is improving, since in 2013, there were 10 cases in which the parties opted for a minority language before one municipal court.[64] Given the low count of cases in which this right was actually used, any amendment of this provision would probably not be among the highest legislative priorities.

Nevertheless, these statistics are important. They show that all cases where the use of minority language in court proceedings was invoked are concentrated in Istria, Croatian peninsula situated in the Northern Adriatic, bordering Italy and Slovenia. Istria is a very important tourist region, with many tourists from Italy visiting year-round. One can only imagine the potential impact of the *Rüffer* judgement to this region. Is an eruption of cases involving Italian citizens domiciled in Italy or another Member State and claiming the right to use Italian as the official language of minority (on equal footing with the Italian minority in the region) before courts in specific parts of Istria likely? A variety of potential disputes is always possible, most common would probably involve claims for damages in tort or contractual liability, or minor offences. To reiterate, should standard rules be applied, Croatian would be the language of the proceedings. That means that parties who do not understand the language of the proceedings would have to have a court interpreter, and would also have to communicate with the court in the official language of the proceedings, which is Croatian. Pursuant to Article 102(4) of the Croatian Civil Procedure Act[65], the cost of interpretation is born by the party or another participant in the proceedings who requires interpretation. On the other hand, the cost of interpretation and translation to and from the languages of national minorities is covered from the court's own resources.[66] The same practice ap-

62 Fourth Report, *op. cit.* (fn. 52), p. 65.

63 *Loc. cit.*

64 Municipal court Rovinj-Rovigno (Istria County). There is no available data for other courts in 2013, or for later period.

65 Zakon o parničnom postupku, Narodne novine, Nos. 53/91, 91/92, 112/99, 129/00, 88/01, 117/03, 88/05, 2/07, 96/08, 84/08, 123/08, 57/11, 25/13 and 89/14.

66 Article 105(2) Civil Procedure Act.

plies to criminal law cases in which the costs of interpretation and translation are covered by the state. The procedural costs play an important part when deciding whether to initiate certain proceedings or not. Needless to say, if one cost aspect is eliminated, chances are that more people will be likely to instigate court proceedings.

This leads us to another important remark: it takes only one party to the proceedings to trigger the possibility of application of a minority language in official use. In accordance with Article 14(1) of the Act on the Use of Language and Script of National Minorities in the Republic of Croatia, when a party in the proceedings declares that he/she opts for the use of a minority language, a body conducting the proceedings shall take all necessary measures, in accordance with procedural rules, to ensure effective use of that right. Consequently, there is no need for a common accord of both parties. All documents and communication will be delivered to that party not only in the minority language, but also in Croatian as well.[67]

6. CONCLUSION

It is the Member States, not the EU, that determine the level of rights to be given to the minorities. Nevertheless, recent developments of the CJEU case law have paved the way towards ensuring more protection to all EU citizens, in particular due to the possibility to use minority languages in court proceedings. This development is not just unilaterally beneficial. Linguistic minorities are today more valued owing largely to the EU's respect for cultural, religious and linguistic diversity enshrined in Article 22 of the Charter of Fundamental Rights of the European Union which became legally binding with the entry into force of the Treaty of Lisbon in 2009. In consequence, if properly realised in the context of EU citizenship, linguistic pluralism could prosper and become more than just a symbolic European added value.

It is up to the Member States to take the lead in ensuring that the right to use minority languages is duly protected and that the national legislation governing minorities does not run counter to EU law, in particular to the principle of non-discrimination and the right to free movement guaranteed to all EU citizens. Otherwise, the Member States risk having infringement proceedings for violation of EU law taken up against them by the European Commission.

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[67] Article 14(2) Act on the Use of Language and Script of National Minorities in the Republic of Croatia.

Sažetak

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GRAĐANSTVO EUROPSKE UNIJE, SLOBODA KRETANJA I PRAVO NA UPORABU MANJINSKOG JEZIKA U SUDSKOM POSTUPKU

Zabrana diskriminacije temeljem državljanstva temeljno je načelo i ishodište slobode kretanja u Europskoj uniji. Primjena tog načela u praksi izaziva ponekad (ne)očekivane posljedice. U ovom radu analizira se primjer prava na uporabu manjinskog jezika u sudskom postupku. Status i pravo na uporabu manjinskog jezika razlikuje se u državama članicama EU-a, ali je najčešće ograničeno na određena područja države u kojima se jamči ravnopravna uporaba manjinskog i službenog jezika pred upravnim i/ili sudskim tijelima, u radu predstavničkih ili izvršnih tijela lokalne vlasti, obrazovanju itd. Opseg ovog jamstva u potpunosti ovisi o nacionalnom zakonodavstvu i međunarodnim obvezama države članice. Međutim, gotovo isključivo pridržano je za pripadnike određene nacionalne manjine koji su državljani određene države i prebivaju na određenom teritoriju te države. Učinak tog pravila u multinacionalnom i višejezičnom okružju Europske unije izaziva određene dvojbe, osobito kada se sukobi s načelom zabrane diskriminacije temeljem državljanstva. Polazište ovog istraživanja je analiza presude Suda EU-a u predmetu Rüffer, C-322/13, u kojoj je Sud smatrao nacionalni propis kojim se pravo na uporabu manjinskog jezika u građanskom parničnom postupku ograničava na državljane te države s prebivalištem na određenom teritoriju protivnim načelu zabrane diskriminacije temeljem državljanstva. U radu se analizira na koji način sudska praksa i pravni okvir EU-a mogu utjecati na nacionalnu politiku i pravo zaštite nacionalnih manjina te postoji li potreba za de lege ferenda *izmjene nacionalnih propisa.*

Ključne riječi: građanstvo EU-a, sloboda kretanja, unutarnje tržište, manjinski jezici, Direktiva 2010/64/EU

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