



*Protección supranacional de los derechos lingüísticos  
en un contexto universal y europeo*

*Supranational Protection of Language  
Rights in Universal and  
European Context*

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## **Resumen**

Ni existe ni siquiera un tratado internacional universal dedicado extensamente a los derechos lingüísticos. Este artículo presenta los resultados del análisis de tratados universales y regionales seleccionados, que contienen disposiciones para la protección de los derechos lingüísticos, y tienen como objetivo extraer conclusiones sobre la efectividad del enfoque legal internacional en esta materia. El análisis de actos elegidos del derecho internacional y del derecho europeo lleva a la conclusión de que los estados están más que dispuestos a aceptar regulaciones blandas, debido a la falta de preocupación por las duras consecuencias legales, y luego a ajustar los problemas particulares con ayuda de acuerdos bilaterales sobre una base de reciprocidad.

*Palabras clave:* derechos lingüísticos, minorías lingüísticas, derechos colectivos, derecho internacional, derecho europeo.

## **Abstract**

Not even one universal international treaty is dedicated extensively to linguistic rights. This article presents the results of the analysis of selected universal and regional treaties containing provisions for the protection of language rights, and aims at drawing conclusions about the effectiveness of the legal international approach in this subject matter. The analysis of the chosen acts of the international law and the European law leads to the conclusion that states are rather willing to accept soft law regulations, due to the lack of concern about stiff legal consequences, and then to adjust the particular issues with the help of bilateral agreements on a reciprocal basis.

*Keywords:* language rights, linguistic minorities, collective rights, International Law, European Law.

It is widely accepted and hardly disputed that human dignity is natural, non-transferable, and identical for every human being. The consequence of such an understanding of the essence of this value is the assumption that nationality, race, sex, religion, language or education cannot be a prerequisite for the differentiation with regard to human dignity. This principle is considered to be fundamental to all international and domestic regulations, and it serves as the basis for creating a system of other individual rights. In this sense, dignity is the source of all values recognized as human rights and freedoms<sup>1</sup>.

The protection of linguistic minorities is closely related to their culture. As Fernand de Varennes explained, the importance of language for many minorities is a derivative of the central location of language in their social and cultural identity<sup>2</sup>. Language does not only serve functional communication, but it also expresses the cultural identity of the given user and reflects cultural heritage developed by all its previous users<sup>3</sup>. In fact, language is one of the fundamental components of human identity. For this reason, the respect for human dignity is closely linked to the respect for a given person's identity and, therefore, the language of the person. This view was expressed in universal legal instruments<sup>4</sup>. International and regional legal instruments also reflect the relationship between the protection of minority languages and preservation of cultural diversity. Because all languages are an expression of collective identity, it is necessary to provide the conditions that are indispensable for their development<sup>5</sup>.

Not even one universal international treaty is dedicated to linguistic rights. Most of international and regional legal instruments in this field refer to the human rights and the cultural importance of languages, and consequently to the linguis-

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<sup>1</sup> M. Jabłoński, S. Jarosz-Żukowska, *Prawa człowieka i systemy ich ochrony. Zarys wykładu*, Wrocław 2004, p. 26.

<sup>2</sup> F. de Varennes, *Minorities and Human Rights. International Studies in Human Rights*, Volume 45, Martinus Nijhoff Publishers, The Hague / Boston / London 1996, p. 129. See also: A. Connelly, *The European Convention on Human Rights and the Protection of Minorities*, 2 Irish Journal of European Law 1993, p. 279.

<sup>3</sup> S. Mancini, B. de Witte, *Language Rights as Cultural Rights: A European Perspective*, in: F. Francioni, M. Scheinin (ed.), *Cultural Human Rights*, Leiden 2008, p. 247.

<sup>4</sup> Organization for Security and Cooperation in Europe, High Commissioner on National Minorities, The Oslo Recommendations Regarding the Linguistic Rights of National Minorities, 01.02.1998, <http://www.osce.org/hcnm/67531?download=true> (2016-11-25).

<sup>5</sup> Art. 7 (1) of the Universal Declaration on Linguistic Rights, (June 9, 1996), United Nations Educational, Scientific and Cultural Organization [UNESCO], [www.unesco.org/cpp/uk/declarations/linguistic.pdf](http://www.unesco.org/cpp/uk/declarations/linguistic.pdf) (2016-10-25).

tic diversity as a general policy. This article presents the results of the analysis of universal and European treaties for the protection of language rights, and aims at drawing conclusions about the effectiveness of the legal international approach in this subject matter.

## United Nations

The process of referring to the concept of human dignity in international agreements was initiated after the Second World War, when the Preamble to the Charter of the United Nations<sup>6</sup> of 26 June 1945 declared the need to restore faith in the fundamental human rights, in the dignity and worth of human beings. These formulations were then repeated in Article 1 of the Universal Declaration of Human Rights<sup>7</sup> of 10 December 1948, stating that all human beings are born free and equal in dignity and rights.

Language rights are protected by the international law from the perspective of protection of national minorities and indigenous peoples<sup>8</sup>. Because minorities are recognized as entities located in a relatively worse situation, it does not suffice to merely tolerate their languages, but it is also necessary to promote them. The minority language is usually different from the language of the majority, and the special protection of minority groups is necessary in order to preserve their cultural identity. For this reason, guarantees of language rights are subject to regulation under conventions relating to the protection of these groups and their members.

Article 27 of the International Covenant on Civil and Political Rights (hereafter: ICCPR)<sup>9</sup>, which contains a positive obligation to support maintenance and revitalization of minority languages, constitutes the universal source of language rights protection. According to this Article, persons belonging to ethnic, religious, and linguistic minorities shall not be denied the right to their own culture, to profess and practice their own religion, and to use their own language together with other members of their group. Article 27 ICCPR is neither a standard program nor the principle devoid of effectiveness, because the states are required to establish national measures necessary for its implementation. Article 27 ICCPR defines only the priority, which is to respect and preserve the specific characteristics of minorities,

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<sup>6</sup> <http://www.un.org/en/sections/un-charter/un-charter-full-text/> (2016-11-06).

<sup>7</sup> <http://www.un.org/en/universal-declaration-human-rights/index.html> (2016-11-06).

<sup>8</sup> On the necessity to protect language rights in international law: L. Mälsköo, *The Language Rights in International Law: Why the Phoenix is Still in the Ashes*, 12 *Florida Journal of International Law* No 12 (2000), p. 441.

<sup>9</sup> International Covenant on Civil and Political Rights opened for signature at New York on 19 December 1966, United Nations, Treaty Series, vol. 999, p. 171 and vol. 1057, p. 407.

that is language, culture and religion. Nevertheless, its implementation requires the signatory states to fulfill this obligation<sup>10</sup>.

The Human Rights Committee referred to the regulation of Article 27 ICCPR in its general comment No. 23 of 6 April 1994, and noted that it establishes and recognizes the right granted to persons belonging to minorities. The Committee explained therefore that Article 27 ICCPR does not establish a collective right. The Committee also made a distinction between the rights protected under Article 27 ICCPR and the right to self-determination provided in Article 1 ICCPR, in addition to the prohibition of discrimination in accordance with Article 2(1) and Article 26 ICCPR. The Committee also noted that the terms used in Article 27 ICCPR suggest that those protected belong to a given group and share a common culture, religion and/or language, and that the persons to be protected must not be nationals of Contracting States to the ICCPR. Moreover, persons belonging to minorities do not need to be permanent residents to benefit from the protection of Article 27 ICCPR. Even migrant workers and newcomers in the country constitute a minority and have the right not to be deprived of the use of these rights. The Committee concluded that, although Article 27 ICCPR is formulated in a negative way, it requires the adoption of positive measures of protection, not only against the actions of the Contracting State to the ICCPR in the sphere of legislative, administrative or judicial review, but also against those of other people in this country<sup>11</sup>. Positive measures may be necessary to protect the identity of minorities and the rights of their members to cultivate and develop their own culture and language and to practice their own religion in the community with other members of the group<sup>12</sup>. The Committee did not specify, however, what should be the nature of these measures and left this question to the discretion of the Contracting States to the ICCPR. In a later communication on the importance of Article 27 ICCPR, the Committee replaced the existing wording with the strong commitment of Contracting States to grant protection to ethnic and linguistic minorities.

The implications of the rights of minorities to cultivate their culture and use their language, as contained in Article 27 ICCPR, were developed in the United Nations Declaration on the Rights of persons belonging to national minorities or ethnic or religious (1992)<sup>13</sup>. This document, which is considered an interpretative

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<sup>10</sup> X. Arzoz, *The Nature of Language Rights*, Journal on Ethnopolitics and Minority Issues in Europe No 2 (2007), p. 10.

<sup>11</sup> *ibidem*, item 6.1.

<sup>12</sup> *ibidem*, item 6.2.

<sup>13</sup> *Lovelace v. Canada*, U.N. Human Rights Committee, Final Views, Communication No. R.6/24, U.N. Doc. Supp. No. 40 (A/36/40) (1981), item 15; *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, G.A. Res. 47/135, U.N. Doc. A/RES/47/135 (Dec. 18, 1992).

declaration of Article 27 ICCPR<sup>14</sup>, goes beyond the initial approach presented in Article 27 ICCPR. Article 2 of the Declaration states affirmatively that persons belonging to linguistic minorities have the right to enjoy their own culture and use their own language<sup>15</sup>.

The International Labour Organization Convention (hereafter: ILO) No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries<sup>16</sup>, which is placed beyond the protection of minorities and among guarantees being different in nature, is an international instrument for the protection of indigenous peoples containing a list of linguistic rights. The linguistic rights of indigenous peoples do not relate mainly to the protection of commercial interests, but some of them are important for the transmission of information related to trade in a language other than the language of the majority. Article 30(1) of ILO Convention No. 169 states that governments are to adopt measures appropriate to the traditions and cultures of the peoples concerned, to tell them of their rights and obligations, in particular with regard to work, economic opportunities, issues of education and health, social welfare, and their rights under the this Convention<sup>17</sup>.

## Council of Europe

UN Human Rights Committee and the European Court of Human Rights belong to two separate legal regimes, which include rights related to linguistic minorities: the competence of the Committee include, among other things, issuing authoritative comments in response to a complaint under the ICCPR, while the European Court of Human Rights is responsible for monitoring compliance by the Member States of the Council of Europe with their obligations under the European Convention on Human Rights (hereafter: ECHR)<sup>18</sup>. The ICCPR provides for, on the basis of Article 27 ICCPR, a direct right to the use of minority languages, while the ECHR does not contain a corresponding permissions. The claimants under

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<sup>14</sup> *ibidem*, Preamble, item 4: “Inspired by the provisions of article 27 of the International R Covenant on Civil and Political Rights concerning the rights of persons belonging to ethnic, religious and linguistic minorities”.

<sup>15</sup> *ibidem*, Art. 2(1).

<sup>16</sup> International Labour Organization (ILO), *Convention No 169 concerning Indigenous and Tribal Peoples in Independent Countries*, adopted June 27, 1989, entered into force September 25, 1991, 72 ILO Official Bull. 59; 28 ILM 1382 (1989).

<sup>17</sup> *ibidem*, Art. 30: „Governments shall adopt measures appropriate to the traditions and cultures of the peoples concerned, to make known to them their rights and duties, especially in regard to labour, economic opportunities, education and health matters, social welfare and their rights deriving from this Convention”.

<sup>18</sup> Convention for the Protection of Human Rights and Fundamental Freedoms, Rome 4 November 1950 r., ETS No. 005.

the ECHR cannot raise immediate claim of their language rights, but only a claim alleging infringement of Article 14 ECHR, which prohibits discrimination in the enjoyment of other rights upon the ECHR, with language as one of several bases. In the doctrine, Article 27 ICCPR is considered to be the most widely accepted, legally binding provision on minorities, however the Committee is reluctant to recognize the right to use the minority language in the official circulation<sup>19</sup>. The results of investigations on the basis of Article 27 ICCPR do not differ significantly from similar claims directed to the European Court of Human Rights, even though in the latter case, in the absence of a direct language right, only a limited range of Article 14 ECHR establishing the prohibition of discrimination in the enjoyment of other rights provided for in the ECHR can be applied<sup>20</sup>. The claimant featuring the direct language right of Article 27 ICCPR does not enjoy, however, greater protection of their language than provided by Article 14 ECHR in reference to the prohibition of discrimination and the right to a fair trial, which in turn are not linguistically or culturally specific.

The European Charter for Regional or Minority Languages (hereafter: ECRML)<sup>21</sup>, adopted 1992 within the framework of the Council of Europe, is one of the most important documents at the regional level, containing binding standards for language rights. As the first international legal instrument devoted to the protection of minority languages, the Charter helped to increase the standards of protection in the areas, in which the universal instruments are incomplete. The Contracting States undertake to introduce a minimum number of measures to promote regional and minority language in various fields. Article 3(1) ECRML provides that each State ratifying the ECRML determines which minority and regional languages should be included within the scope of the Charter. It is worth noting, however, that not all European countries, including the European Union Member States, have signed and ratified the ECRML<sup>22</sup>. For the purposes of the ECRML, regional and minority languages are languages that are traditionally used within a given territory of a state by citizens of this state that form a group numerically smaller than the rest of the state's population. These languages are to be different from the official language(s) of the state. This notion includes neither dialects of the official

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<sup>19</sup> R. Wieruszewski, Artykuł 27: Ochrona mniejszości, in: R. Wieruszewski (ed.), *Międzynarodowy Pakt Praw Obywatelskich (Osobistych) i Politycznych*, Warszawa 2012, p. 692.

<sup>20</sup> M. Paz., *The Failed Promise of Language Rights: A Critique of the International Language Rights Regime*, Harvard International Law Journal, Vol. 54, No 1 (2013), p. 165

<sup>21</sup> European Charter for Regional or Minority Languages, done in Strasburgu on 5 November 1992, ETS No. 148.

<sup>22</sup> [http://www.coe.int/pl/web/conventions/full-list/-/conventions/treaty/148/signatures?p\\_auth=XMDjTPza](http://www.coe.int/pl/web/conventions/full-list/-/conventions/treaty/148/signatures?p_auth=XMDjTPza) (2016-10-25).

language(s) of the state nor languages of migrants (Article 1 ECRML). With regard to regional and minority languages on the territories in which these languages are used, and depending on the situation of each language, the Contracting States must base their policies, legislation, and practice, amongst others, on the following objectives and principles: recognition of regional and minority languages as an expression of cultural wealth; respect for the geographical area of each regional/minority language in order to ensure that the existing or new administrative divisions do not constitute an obstacle for the promotion of this regional or minority language; the need to take resolute actions to promote regional and minority languages in order to protect them; facilitating and encouraging the application of the regional and minority languages in speech and writing, in public and private life (Article 7 ECRML).

The Council of Europe also adopted a general document for the protection of national minorities, i.e. the Framework Convention for the Protection of National Minorities (hereafter: FCPNM)<sup>23</sup>. According to Article 1 FCPNM, the protection of national minorities and the rights and freedoms of persons belonging to those minorities forms an integral part of the international protection of human rights and, as such, falls within the scope of international cooperation. The Contracting States 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 5(1) FCPNM). The content and scope of the Convention were assessed by the European Court of Human Rights in *Chapman v. United Kingdom*<sup>24</sup>. Having examined the specific cultural background of the Roma communities, the Court held that in this case the right to protection and respect for private and family life must mean the right to preserve the cultural identity of minorities through support for conducting private life in harmony with the nomadic tradition<sup>25</sup>. According to the Court, it can be said that there is an emerging international consensus among the Contracting States of the Council of Europe recognizing the special needs of minorities and an obligation to protect their security, identity, and lifestyle. However, the Court is not persuaded that the consensus is sufficiently concrete for giving clues to behavior or standards which Contracting States consider desirable in a particular situation. The Court pointed out that the FCPNM sets

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<sup>23</sup> Framework Convention for the Protection of National Minorities, done in Strasbourg on 1 February 1995, ETS No. 157.

<sup>24</sup> *Chapman v. The United Kingdom* (Application no. 27238/95), ruling of European Court of Human Rights of 18 January 2001, ECHR 2001-I.

<sup>25</sup> *ibidem*, item 73.



out general principles and objectives, but the signatory countries were unable to agree on the way of their implementation<sup>26</sup>.

## European Union

In addition to the legal protection of minorities, including cultural diversity, as expressed in the system of protection of human rights of the Council of Europe, relevant provisions relating directly to multiculturalism, include the law of the European Union (hereafter: EU). Regardless of the national policies of the Member States, the EU, bearing in mind the goal of integration and respect for human rights, should be particularly interested in promoting the idea of multiculturalism, as the blending of cultures is essential to the process of integration. Promotion and protection of multiculturalism are particularly important in the context of the rights of persons belonging to national and ethnic minorities<sup>27</sup>.

According to Article 2 of the Treaty on European Union (hereafter: TEU)<sup>28</sup>, the EU was founded on the values of respect for human dignity, liberty, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States. This provision sets thus a new standard in the EU approach to the fundamental rights of its citizens, i.e. the protection of human rights is not only a general principle of the EU primary law, but also the concrete commitment of the EU and its Member States, which together should strive to develop and strengthen the fundamental rights in the European area. Article 2 TEU is assessed as constituting a central category of the normative legal order of the EU, overriding even the general principles of the law and the written laws of the EU<sup>29</sup>.

Human dignity also received its normative content of the Charter of Fundamental Rights of the European Union (hereafter: ChFR)<sup>30</sup>, announced officially at the European Council in Nice on December 7, 2000<sup>31</sup>. It strengthens the protection of the fundamental rights of the EU citizens by stating that there must be no dis-

<sup>26</sup> *ibidem*, item 93-94.

<sup>27</sup> The dignity of the human person takes the first place in the axiology of the European Union as a good of fundamental importance, compare: W. Osiatyński, *Prawa człowieka i ich granice*, Kraków 2011, p. 292.

<sup>28</sup> Treaty on European union (Consolidated version 2016) - OJ C 202 (2016).

<sup>29</sup> J. Sozański, *Ogólne zasady prawa a wartości Unii Europejskiej (po Traktacie lizbońskim) – studium prawnoporównawcze*, Toruń 2012, p. 165.

<sup>30</sup> Charter of Fundamental Rights of the European Union, OJ C 326, 26.10.2012, p. 391–407.

<sup>31</sup> M. Sadowski, *Godność człowieka i dobro wspólne jako fundament wartości europejskich. Propozycje katolickiej nauki społecznej*, in: E. Kozerska, T. Scheffler (ed.) *Aksjologiczne i praktyczne aspekty integracji europejskiej*, Wrocław 2007, p. 105–107.

crimination, in particular with regard to ethnic origin, language, religion, and race. According to Article 22 ChFR, the EU respects cultural, religious, and linguistic diversity. Although the content of the TEU and the ChFR do not give rise to any collective rights of minorities, they justify the assumption that legal dilemmas related to the protection of cultural diversity of the Member States should be resolved taking into account not only the international or domestic law, but also the EU law<sup>32</sup>. On the basis of Article 2 and Article 3 in connection with Article 4(3) TEU, the Member States committed themselves to a joint action in view of the completion of the EU core values: respect for human dignity, human rights, including the rights of persons belonging to minorities.

ChFR does not grant to minorities as groups or communities the right to protect their cultural identity, religious and linguistic diversity. In this sense, it does not give grounds for the construction of collective rights, to which a cultural, religious or linguistic minority would be the subject. The minority rights are protected indirectly through the fundamental rights as guaranteed by the ChFR, which also serve members of communities and minority groups, i.e. the freedom of thought, conscience, and religion (Article 10 ChFR); the right of parents to ensure the education and teaching of their children in conformity with their religious, philosophical, and pedagogical convictions (Article 14(3) ChFR); the right to apply in writing to the EU institutions in one of the languages of the Treaties (Article 41(4) ChFR); the prohibition of discrimination, in particular with regard to race, color, ethnic or social origin, language, religion or belief, political or any other opinion (Article 21 ChFR). The ChFR repeats in its Article 21(1) the formula used in Article 14 ECHR and sets, amongst other things, the prohibition of discrimination on the grounds of national minority.

In terms of the fundamental rights, including language rights, petitions submitted by EU citizens play an important role. The right to petition is specified in Rule 215 of the Rules of Procedure of the European Parliament<sup>33</sup>. The petition may be submitted by any EU citizen and any natural person being resident in a Member State. The Committee on Petitions deals, amongst others, with complaints lodged by non-German parents on discriminatory practices of the German Office for Children, Youth and Family, which in many cases, a priori assumed that in the event of separation or divorce the non-German spouse would not be able to properly care for the education of their children and usually granted the custody of the child to the parent who is German. At the same time, they prevented the non-German parent from speaking

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<sup>32</sup> A. Wróbel, *Karta Praw Podstawowych. Komentarz*, Warszawa 2013, p. 758.

<sup>33</sup> Rule 215: Right of petition, Rules of Procedure of the European Parliament, <http://www.europarl.europa.eu/sides/getLastRules.do?language=en&reference=RULE-198> (2016-11-06).

with the child in a language other than German, and the meetings always took place in the presence of an official<sup>34</sup>. The case was subject to a claim submitted to the European Court of Human Rights, which, by the judgment of 8 April 2004, held unanimously that Germany violated Article 8 ECHR in the field of family life<sup>35</sup>.

## Bilateral Treaties

The conclusion of bilateral agreements, including a provision that persons belonging to minorities have, on the basis of the principle of reciprocity, the right to freely use their mother tongue in public and private life, and the right to write their names and surnames in their mother tongue, is conducive to the development and protection of minority rights. Sometimes the content of the agreements introduces the possibility of using by persons belonging to national minorities their mother tongue also in public life, i.e. in relation citizen–public authorities<sup>36</sup>.

The Treaty between the Republic of Poland and the Federal Republic of Germany on good neighborhood and friendly cooperation, signed in Bonn on 17 June 1991<sup>37</sup> may serve as an example. According to Article 20(1-3) of the Treaty, members of the German minority in the Republic of Poland, i.e. persons with the Polish citizenship who are of the German origin or admit to the German language, culture and traditions, as well as those in the Federal Republic of Germany, with the German citizenship, who are of the Polish origin or admit to the Polish language, culture and traditions, have the right, individually or together with other members of their group, to freely express, preserve, and develop their ethnic, cultural, linguistic, and religious identity without any attempt at assimilation against their will. The treaty gives them the right to the full and effective enjoyment of human rights and fundamental freedoms without any discrimination and in full equality before the law. Persons referred to in the Treaty enjoy in particular the right, individually or together with other members of their group, to freely use their mother tongue in private and public life, to access information in this language, to disseminate and exchange, as well as to use their names and surnames in their mother tongue.

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<sup>34</sup> G. Janusz, *Prawa Podstawowe a ochrona Mniejszości Narodowych w Unii Europejskiej*, Teka Komisji Politologii i Stosunków Międzynarodowych O.L. PAN, No 5 (2010), p. 170.

<sup>35</sup> *Haase v. Germany* (Application no. 11057/02), ruling of European Court of Human Rights of 8 April 2004, ECHR 2004-III.

<sup>36</sup> Compare: M. Masternak – Kubiak, *Odesłania do prawa międzynarodowego w Konstytucji RP*, Wrocław 2013, p. 129-134.

<sup>37</sup> Polish Journal of Laws No 14 item 56.

## Soft Law

Soft law instruments do not establish a formal legal obligation for states. Therefore, they are more likely to contain more far-reaching provisions concerning the protection of language rights than a binding source of law. An example of this type of law is the Universal Declaration of Linguistic Rights<sup>38</sup> (hereafter: UDLR) adopted in the framework of the UNESCO World Conference on Language Rights in 1996. Article 1(2) UDLR states that language rights are both individual rights and collective agreements. According to Article 2(3) UDLR, the collective rights of language groups may include the following: the right to learn their own language and culture; the right of access to cultural services; the right to an equitable presence of their language and culture in the communications media; the right to communicate in their own language with government bodies and in socio-economic relations. The UDLR introduces the concepts of 'linguistic community' and 'linguistic group'. In light of Article 1(1) UDLR, a linguistic community is any human society established historically in a particular territorial space, whether this space is recognized or not, which identifies itself as a people and has developed a common language as a natural means of communication and cultural cohesion among its members. According to Article 1(5) UDLR, a language group is each group of people sharing the same language, which is established in the territorial space of another linguistic community but which, as opposed to the main linguistic community, does not have historical predecessors. Examples of linguistic groups are immigrants, refugees, deported persons and members of diasporas. This innovative conceptual framework has a potential to help overcome the difficulties associated with the narrowing treatment of minorities with regard to language rights.

## Conclusion

The analysis of respective acts of the international law and the European law leads to the conclusion that states are more willing to accept soft law regulations on the protection of linguistic rights due to the lack of concern about stiff legal consequences, and then to adjust the particular issues in the bilateral agreements on a reciprocal basis.

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<sup>38</sup> Universal Declaration of Linguistic Rights (1996), <http://www.unesco.org/cpp/uk/declarations/linguistic.pdf>, (2016-10-25).

The international law protects national minorities in order to preserve their cultural identity and to avoid ethnic conflicts, including language. The overview of the various instruments to protect minority language rights indicates, however, the reluctance of the international community to grant these groups specific, enforceable rights in this area.

Article 27 ICCPR is the most widely accepted legally binding provision on minorities. On the contrary, the ECHR does not contain any direct language right, offering only the prohibition of discrimination in the enjoyment of other rights provided for in the ECHR. Claimants submitting their application on the basis of the direct language right according to Article 27 ICCPR, however, do not enjoy greater protection of their language than when acting on the basis of the right stipulated in Article 14 ECHR that refers to the prohibition of discrimination and the right to a fair trial, which in turn are not linguistically and culturally specific. Also the ChFR, which, however, establishes, amongst others, the prohibition of discrimination on the grounds of national minority, does not provide an effective safeguard mechanism and leaves the problem to be solved particularly, on a bilateral basis.

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