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South Tyrol: Linguistic Pluralism or Linguistic Parallelism?

Abstract

The article throws light on the unique linguistic situation of South Tyrol, characterised by the parity of the German and Italian language. The territory has had over 30 years of experience in operational autonomy one of the basic components of which is the language factor. South Tyrol's strict proportionality in the public service, from the point of view of language policy, has often been referred to as a model to be followed.

The paper provides insight into the components of a well-established institutional bilingualism and makes an attempt to outline the difficulties related to bilingualism on an individual level. The school system, for example, which has been established according to linguistic-ethnic guidelines, does not succeed in providing a firm knowledge of the second language. At the same time, it creates an atmosphere of separation, generating barriers between the language groups that can be difficult to overcome.

However, the paper suggests that contrary trends, aiming at achieving a harmony between the linguistic groups are starting to occur. This manifests itself in the formulation of a unique South Tyrolean identity; initiatives to reform the educational system in order to yield a more effective approach which supports bilingualism and the favorable contacts between the two language groups, regarding the personal level. These optimistic trends could serve a firm basis to make true bilingualism an integral part of the South Tyrolean character and thus pave the way towards a multicultural and undoubtedly enriching experience. Such development should be able to offer not only a legally defined parallel coexistence but through a more flexible and realistic approach a pluralistic cohabitation of language groups.

Historical background

As a result of the Peace Treaty signed in Saint Germain-en-Laye, in 1919 the former Austrian territory of South Tyrol was annexed to Italy. This rearrangement of the borders elicited a great deal of resistance among the German population of the area – representing the overwhelming majority – since the Wilsonian doctrine of self-determination was not taken into

consideration. The period between the two World Wars was in major part characterised by fascist aspirations aiming at assimilation. The obvious and flagrant objective was to make the territory as Italian as possible by putting an intensive anti-German policy into operation. Official measures banned the public use of the German language and this undoubtedly had a serious impact on all areas of life. Italian was made the exclusive language to be used in the public service, both in internal and external communication, education in schools was only available in Italian, German family names were rendered into Italian ones. The fascist regime attempted to take all possible measures to make the use of German impossible within South Tyrol. Besides these steps against the German minority, intensive action was taken to promote the migration and subsequent settlement of Italian population in order to create a different ethnic balance. In spite of all these circumstances Italian did not succeed in taking over from German in everyday life, the ethnic and linguistic homogeneity envisaged by the fascist regime proved to be an unrealistic idea.

In the years following the Second World War a slow change in attitudes to language use could be witnessed: German slowly started to make its way back to the public sphere. As part of the Paris Peace Treaty the Gruber-De Gasperi Agreement declared the autonomy of the German population and at the same time – in the name of minority protection – it guaranteed a wide range of rights. The main achievement of the Agreement signed in 1946 was that the Italian state guaranteed South Tyrol's autonomy in the realm of certain legislative and executive competences and as a result, the First Autonomy Statute was declared in 1948. However the measures protecting the German minority were not put into practice effectively. The autonomy applied throughout the region named Trentino-Tiroler Etschland/Trentino-Alto Adige, where the Italian population formed the majority. The political struggles for a well functioning autonomy even lead to bombings in the 1960s and the case of South Tyrol was discussed in the UN General Assembly.

The German population of the area also tried to exert pressure on the Italian government with the help of Austria. The strive for real autonomy gave way to the Second Autonomy Statute in 1972, which had significant political, cultural social and economic dimensions. One of its main achievements was the explicit recognition of diversity and a redistribution of spheres of influence and powers. As opposed to the region-centered practice followed earlier, its essential element was guaranteeing particular comprehensive powers at province level. The competences of the region and of the province were redefined. Meanwhile, special measures were put in place for South Tyrol addressing specific issues including use of mother tongue, education, culture, bilingualism and ethnic proportionality. The

province of Bozen/Bolzano was guaranteed significant new powers and competences, thus it was made responsible for a number of issues essential from a linguistic point of view.

Apparently, changes did not take place overnight; the „Package” consisting of 137 measures regulating the protection of the German and Ladin minorities was implemented gradually. It took some 20 years to have all of the enactment laws adopted and implemented, meaning that formally the conflict was settled only in 1992. Primary competences delegated to sub-regional level relate to local culture, education, geographical names (bilingualism is compulsory within the province in this respect) and establishments with a cultural profile (libraries, different institutes etc.).

The Statute framework offers a dual approach regarding the provisions on language use. The legal context can be regarded as a mixture of principles protecting both the individuals belonging to the German and Ladin population and the group itself, establishing the principle of territoriality at the same time. The Statute guarantees individual rights on one hand (see Article 100) reserved to the members of the minority language group. On the other hand it has a powerful territorial dimension, expressed by Article 99 of the Autonomy Statute laying down the equal standing of both languages, not differentiating between those belonging to a minority group and other citizens. The principle is thus applied on a territorial basis throughout the autonomous province.

Ladins are an autochthonous population within the province. Owing to the geographically determined autonomy, as a linguistic minority they found themselves in a relatively favourable legislative environment since the vast majority of Ladin speakers live in South Tyrol. Not only do the autonomy measures apply to the entire province (covering the Ladin valleys), but the area also falls under the protection of international agreements. In this situation the Italian government had no choice but to secure certain legal protection to Ladin as a minority language as well as its speakers. The autonomy of South Tyrol is to guarantee the linguistic and cultural development of the German and Ladin language groups within the legal framework of the Italian State. In South Tyrol the population's ethnic composition is two-thirds German speakers, less than one-third Italian speakers and some 20.000 Ladin speakers.

The basic factors underlying linguistic parallelism

Ethnic conflict is not a routine these days any more in South Tyrol, as the province operates a well established system having a major role in preventing conflicts of ethnic nature. It has often been claimed that South

Tyrol is an effectively functioning geographically organised autonomy. The legal regulatory measures put in place undoubtedly contribute to the ethnic and linguistic groups in question living together in an environment free of major ethnic conflicts. The institutional framework of the linguistic diversity characterising South Tyrol is equipped with a number of factors.

To begin with, the linguistic minorities living in South Tyrol enjoy a privileged status compared to various other linguistic minorities within the territory of Italy. The First Autonomy Statute granted to South Tyrol in 1948 and pronounced anew in 1972 ensure comprehensive rights to the linguistic minorities. In line with this the German (in certain cases the Ladin) minority's rights are equal to rights attributed to the group of Italian speakers. Secondly, not only is the parity of the German and Italian languages a decisive feature of the legal framework, their language prestige is also comparable. Furthermore, both languages are used to more or less the same extent, quite frequently they are used in parallel (commerce, workplaces, authorities). From the point of view of legal protection both German and Italian have equal standing: Article 99 of the Autonomy Statute provides that German has the same role in the province as Italian (Italian being the official language of the Italian state). In addition, the German language group counts as minority within the state, however they form the majority at the level of the province. Finally, bilingualism required in the public service – established by law – leads to a high percentage of the South Tyrol population acquiring both languages.

Ethnic and linguistic proportionality

In South Tyrol working in the public sphere is subject to the criterion of being able to perform work related duties in both German and Italian; it is the public position that determines to what extent a public servant needs to master these languages. The right to use the mother tongue means, in the context of South Tyrol, that each citizen can opt to use one single language in interaction with the public administration. The citizens of South Tyrol – irrespective of whether they are German or Italian speakers – should be empowered to use their mother tongue in all situations involving a societal dimension. If this guideline is to be fulfilled, the equal status of Italian and German can solely be secured through the parallel and overarching presence of both languages.

The parallelism of the two languages is underpinned by three factors: the ratio of public servants belonging to different language groups reflects the (often debated) statistical reality of ethnic proportionality; public serv-

ants are equipped with the capacity to communicate in both languages; furthermore communication between the authorities, public bodies and their clients is arranged in the (presumed) mother tongue of the clients. The concept of ethnic proportionality was introduced by the Proportionality Act of 1976 in order to avoid discrimination in the area of public employment concerning those belonging to a minority language group. Namely, the situation until 1976 was that in South Tyrol the pool of public servants consisted almost exclusively of Italian speakers. In 1976 it was legally established that the employment related proportions regarding public service must correspond to the proportions characterising the presence of the different language groups in South Tyrol. The Proportionality Act thus provides protection to the language minorities as well as the Italian language group by drawing up a clear proportionality mechanism as well as creating equal opportunities.

The principle of ethnic proportionality, on the other hand, needs to be supported by a number of factors. In order to be able to establish the ethnic proportions the population needs to be surveyed according to linguistic affiliation with the greatest precision possible. This objective is aided by the declaration to be submitted every ten year as part of the national census: each citizen of South Tyrol is required to indicate their affiliation to one of the language groups. These declarations then form the basis for the establishment of the ethnic proportionality. The declaration is also important when taking up one's duty in the public service: the candidate uses the declaration to justify that he/she belongs to the language group the post was intended for. If no suitable candidate is found from the targeted language group, the position can be taken up by an individual with a different linguistic affiliation.

The declaration of linguistic affiliation is valid for a period of 10 years, in a following census individuals can decide to declare themselves belonging to a different group. Official alternatives are German, Italian Ladin and Other; the legal provisions do not make a mixed or a bilingual affiliation possible. According to the official argumentation the setting up of additional bilingual and trilingual categories would work against the efforts to maintain the ethnic proportionality. It is not taken into account that for the bilingual or trilingual population the language criterion brings about difficulties in identifying with one single language. The problem has been more and more urging recently as according to estimates the issue affects about 20.000 citizens which makes the language data obtained in the course of the census questionable.

Those declaring themselves belonging to the fourth category need to indicate which one of the three language groups they identify with. In cases

when no linguistic affiliation is declared, the consequences can be grave. Citizens failing to identify with a language group are not entitled to certain rights for a period of 10 years. It also needs to be pointed out that the declaration of linguistic affiliation does not need to be sustained by actual knowledge of the language identified. It could theoretically happen that an individual not speaking German opts for affiliation with the German language group and thus increases his/her chances of public employment as in South Tyrol the majority forming German speakers have twice as high chances as Italians resulting from the principle of ethnic proportionality.

A unique bilingual language examination

Owing to the parity of the two languages authorities are in need of employees mastering both languages to a certain degree. In order to measure degree of mastery in languages a particular examination system was developed; it assesses candidates' knowledge simultaneously in two or in certain cases three languages based on special objective criteria. Working in one of the administration's offices in South Tyrol is bound to the criterion of passing the official bilingual examination: this is the only way to ensure that administrative matters can be dealt with effectively and efficiently in both languages, and that the citizens' right to arrange administrative matters in their mother tongue is respected. The question, whether the requirement of bilingualism is discriminative, certainly arises. What is sure is that this criterion is not unjustified, the parallel presence of Italian and German is indispensable. If bilingualism at this institutional level would not be available the well functioning administrative regime would in itself become questionable and paradoxical.

The bilingual examination can be taken in four levels, these levels correspond to functions within the civil service. Positions requiring a doctoral degree automatically require the highest level bilingual certificate as well. The degree of education and the level of the bilingual examination do not condition each other though. Candidature at the bilingual examination is irrespective of the level of education obtained, citizens can apply to any of the four examination levels. The method of assessing the examinees' knowledge has recently been rethought and developed, the outcome yielding a more communicative approach. Another peculiarity of the system is that the candidates' profession is also taken into consideration in the examination, this means that certain examination elements have a rather practical, profession oriented tendency. Thus the bilingual examination adapts to the South Tyrolean reality and the specific language circumstances.

Language policy in education

The Autonomy Statute provides a detailed regulatory background to the functions and possibilities of the educational sector. It is within the power of the province to determine various aspects to operating kindergartens, educational social services, educational establishments, special training programmes etc. The most relevant underlying principle is education in the mother tongue. Article 19 of the Autonomy Statute states that in the Province of Bozen/Bolzano kindergarten, elementary and secondary level education is provided in the mother tongue of pupils, e.g. in Italian or in German. The article establishes at the same time that teachers need to be native speakers.

Provisions concerning education take into account the special South Tyrolean language ambience. In the course of the educational process a significant emphasis is placed on the acquisition of the non-native language. Starting from the second grade of elementary school each pupil is required to learn the other language, e.g. German in the Italian schools and Italian in the German schools. It is worth mentioning in this context that Ladin is the exclusive language of education only in kindergarten. Pupils belonging to the Ladin language group attend special schools where all three official languages of the province are present. In elementary and secondary grades Ladin remains an assistant language whereas the decisive role is given to German and Italian.

The school regime offers minorities the possibility to use and consequently retain and develop the mother tongue within the educational process. At the same time it guarantees the acquisition of the other language (languages) of the province. Reality however suggests that the educational regulation focussing on language groups has resulted in two educational systems separated along ethnic lines. The legal framework does not provide for a truly bilingual educational model, even though such a system would be able to reflect the cohabitation of the two language groups and would also pave the way to bring about truly functional bilingualism in South Tyrol.

Many claim that introducing a bilingual educational system would infringe upon the right to receive education in the mother tongue. On the other hand, in order to facilitate language education and to contribute to the bilingual character of South Tyrol, many parents decide to renounce of the mother tongue-centered education and send their children to the school of the other language group. As choice of schools is not regulated by law in South Tyrol, parents are in the position to choose from three types of schooling (German, Italian, and Ladin). This decision is certainly constrained by mastery of languages, the condition for enrolment is that pupils need to be able to make progress in the given language. If for example a child from the Italian language group does not possess a certain level of

German, his/her application to a German school can be refused. If this is not the case and the child is seen as being able to carry out his/her studies in the language of the school, parents can choose to renounce of the right to mother tongue education aiming at the protection of the different language groups and increase the chances of their children becoming bilingual.

Given the legal framework, the official language policy does not support experimental methods in the educational system trying to realise a bilingual model. Bilingual schooling is not a widely approved concept. Methodologies striving for bilingualism are in contrast with the principle of mother tongue education pronounced in Article 19 of the Autonomy Statute. The situation is obviously paradoxical as the „ideology of the mother tongue” (Carli 1993:233) prevails in the educational system whereas bilingualism is more often than not a requirement in public life.

From coexistence to cohabitation

As suggested by the examples taken from education and highlighted by a strict separation in many language realms (declaration of language affiliation, proportional representation of language groups) the South Tyrolean society is in several respects dependent on separation. All this takes place in the name of minority protection, placing an emphasis on language rights. The outcome on the other hand is frequently a defensive attitude which also entails resistance to innovation. Ethnicity and language are the foundations of self-identification which results in polarisation. Language groups have set up their own organisations, they have established their structures within society: there are separate educational establishments, political parties, trade unions, clubs, etc. Segregation instead of integration can be witnessed in various areas of life.

However there is hope that the future brings a more flexible approach in this respect, since emphasis can by now shift from security to a more functional interpretation of minority protection. Parents sending their children to school renouncing of mother tongue education are already an indication that more interaction is necessary. The province has seen rapid economic development, ethnic tensions are less and less typical, and positive developments promise more cooperation.

Administration in more languages

In South Tyrol – in line with the principles of minority protection – an operational and effective administrative system has been set up within the constitutional framework regarding areas cohabited by more language

groups. The roots of a well functioning administration can be identified in the 1946 Gruber-De Gasperi Agreement which lays down the foundations of South Tyrol's autonomy, as it calls for the parity of the German and Italian languages in public use and official documents. Legal acts, administrative files, as well as official documents with relevance to the province are available in two languages. In cases where only one language version is available, a translation must be provided by the authorities in the other language upon request. This service is available free of charge, as one of the rules is that citizens must not bear additional costs arising from the coexistence of the two languages.

Article 100 of the Autonomy Statute provides that South Tyrol's citizens have the right to use their mother tongue communicating with the administrative bodies and offices seated in the Province of Bozen/Bolzano or being in charge of regional matters, as well as companies fulfilling a public function within the province. Offices are therefore to make sure administrative matters can be dealt with in all three languages of the province, these include for example legal procedures, duty and tax matters, notary procedures. Public offices are bound to reply to their clients in the language of the client's choice. In case information flow is initiated by a public office in writing, the presumed mother tongue of the client must be used in communication.

Legal documents of general public interest must also be formulated in both languages. The official journal of the region publishes acts and regulations falling under the competence of the region or the province in both Italian and German. The same holds true for those legal acts which are adopted by the state but affect the Region of Trentino-South Tyrol. In case of dispute the Italian language version is to be considered authentic.

In administrative documents bilingualism is foreseen in three cases. One language does not suffice where administrative documents have a wide public interest (e.g. open competitions, calls for expression of interest), personal documents intended for public use (ID card) and documents destined to be used by more than a single body/service. Internal communication within public offices is not regulated by law. Military organisations are an exception to this as they are bound to use Italian only.

The regulations on the telephone book of the province are also rather detailed. Information in a single volume is provided in both Italian and German. Furthermore, the designs must be identical so that the appearance of text and information also reflects the identical status of the languages. From the point of view of the regulatory environment

an interesting problem appeared when in 1990 the parallel use of the two languages was extended to pharmaceutical products. The pharmaceutical industry is not a public body, consequently it does not fall under the constraints valid for public authorities and regulations are therefore difficult to enforce.

It is often the case that a private enterprise is entrusted with a public function falling within the competence of the administration. This way language policy does not remain an issue to be considered solely at public level, but the private sphere might be affected as well. This phenomenon calls for private enterprises involved in outsourcing and having their seat in the province to be subject to the language regulations in place. Examples include pharmacies, transport companies, financial institutions and accredited private schools. They must comply with the legal framework of the unique South Tyrolean language policy. In case of other companies partial bilingualism might be a requirement. The enterprises falling under a less strict language regime include for example insurance companies which in certain cases need to be competent in both languages (e.g. liability insurance). The enterprises concerned must make sure they are capable of efficient operation in both languages, however their employees are not required to possess a bilingual language certificate.

Ladin is not attributed the same comprehensive rights as German in every situation, even though it has the status of the third official language within the province. This minority has a certain degree of cultural autonomy organised on a territorial basis. This means that special measures aiming at the Ladin language group are in force only in the two valleys inhabited by the Ladin population. The two Ladin valleys Grödental (Val Gardena) and Gadertal (Val Badia), with eight municipalities have an over 90% Ladin population according to the census.

In the Ladin municipalities administrative and provincial offices deal exclusively or primarily with issues relating to the Ladin population (e.g. Ladin Educational Office), and here Ladin can be used in official communication. In arranging other official matters at different official bodies the Ladins need to opt for either Italian or German. According to the Presidential Decree n. 267/1992 the Ladin population is entitled to use Ladin in legal proceedings. Legal cases are assisted by the involvement of a court interpreter, thus ensuring the use of the mother tongue in front of court. Police bodies carrying out crime prevention functions – as opposed to those dealing with criminal investigation – are not legally bound to use Ladin, not even in the municipalities with a Ladin majority population.

One case – one language

In conformity with Article 100 of the Autonomy Statute in South Tyrol the practice in public offices concerning language use is generally characterised by the separate use of the German and Italian languages. This means that in administrative matters the language of the initiator must be used in written communication. If this rule is disregarded by the official bodies the file counts as invalid provided that the client who is unable to enforce his/her right on language use submits a claim within a certain time limit. If the office receiving the claim fails to react within a certain time limit, the whole procedure becomes void. If the claim is substantiated and found justified the responsible office must provide the whole dossier in the other language. The declaration of language affiliation is used as evidence only in matters that cannot be settled by the parties involved and the client tries to enforce his/her rights at a later stage. This normally happens where the procedure itself was initiated by the public office; when the procedure starts at the initiative of the client, the declaration as evidence is not necessary.

The police also falls under these provisions even if the autonomy regulations establish the special status of the police force. The exclusive use of Italian concerns only the internal communication of the police, bilingualism is in fact supported (e.g. through courses preparing for the bilingual examination). The external communication of the police is subject to separate rules. In interrogations or in criminal proceedings the citizen has the right to choose the language of the procedure. This choice does not have to correspond to the language declared in the course of the last census. The rule that the presumed mother tongue of the client has to be used when initiating communication is also true in police-related situations. However, the citizen concerned can request to change the language of the procedure within a certain time limit. Then, in turn, all files need to be translated and the procedure continues in the preferred language of the client.

Court proceedings from a language point of view

Court cases present the most complex aspect of the parallel presence of the two languages. It needs to be born in mind that the German and Italian legal traditions are rather different, language and legal culture do not always offer entire overlaps or correspondences. Following the Second World War the most relevant principle was that of the linguistically homogeneous state which justified the role of Italian as one and only official

language. All civil and criminal procedures were carried out in Italian. In 1960 some changes were introduced in favour of the German speaking population of South Tyrol, however delivery of judgments, registration of files and records was still carried out exclusively in Italian. Changes in 1972 also brought about a change in this attitude and German started to obtain a role in administrative matters.

In civil procedures the idea of using one single language is maintained as consequently as possible. One reason is to eliminate errors stemming from a bilingual procedure or translations. In certain exceptional cases however the one case – one language principle cannot always be observed. In line with the measures in force legal authorities and bodies in South Tyrol are also bound to use the language of the initiating citizen. One of the fundamental conditions of minority protection is that citizens have the right to use their mother tongue in legal proceedings too.

In the course of a proceeding two factors have a major influence from the point of view of language use. The first one is the right to choose what language to use during the procedure. The other one is the free translation service which is at the disposal of all participants. The Presidential Decree n. 574/1988 provides that all parties involved have the right to choose the language in which they wish to participate in the procedure. We speak of a monolingual procedure once both the complaint and the answer have been formulated in the same language. If this is not the case the procedure is a bilingual one. In bilingual procedures documents are officially translated at the cost of the court and records are also taken in both languages. Judgments are delivered in both languages and other judiciary provisions are also worded in two languages, however they are only to be applied within the region. Similarly, German can only be used in front of the courts of first and second instance, further appeals exclude its use and Italian becomes the only language of the procedure. Once a case is referred to outside the region all documentation is translated into Italian and the procedure is carried on in Italian.

The parallel use of two languages results in more complex and longer procedures. This is often against the interest of the parties involved. For the time being there is no regulation in force which would allow the plaintiff to renounce of the originally selected language and change to the language preferred by the defendant. It is also worth mentioning that during a civil procedure experts involved need to be able to speak the language of the procedure (in a bilingual procedure they are free to choose Italian or German). According to recent argumentation any expert should be allowed to use their mother tongue in front of the court. The language limitations set by the established language of the procedure are

against equal opportunities since it is primarily the language factor and not professional factors that are taken into consideration when choosing an expert.

The use of one language is also practical and desirable in criminal procedures. The accused has the right to use the language of his/her choice. The sanction of nullity can be brought into effect once the documentation is not in the appropriate language. This guarantees that provisions are adhered to. In the first court hearing the question of language use must be settled and the procedure is adjusted to the language selected which does not have to be the mother tongue of the accused. The criminal procedure is not connected in any way to the declaration of language group affiliation, the declaration does not form the starting point for language questions. On appeal the accused also has the right to change the language of the procedure. In such cases the procedure continues in a different language, however previous documentation is not translated. Witnesses, aggrieved parties are allowed to testify in their respective mother tongue. If this differs from the language of the procedure, questions put to them and their answers are translated and recorded in the procedural language.

An exception exists however, the defence counsel is not bound by the language of the procedure, he/she is in the position to present the reasoning and the defence speech in either of the two languages. For the purposes of the records, however, these contributions are translated and filed in the procedural language. Designated counsels cannot make use of this exception, they are not allowed to deviate from the official language used in the specific court case.

A bilingual procedure is characteristic when there are more accused and they belong to different language groups. The indictment and the judgment are both delivered in two languages. For practicality's and efficiency's sake the procedure is carried out in one single language as far as possible, and this normally corresponds to practice.

Bilingualism and the legal system

Bilingual procedures bring about a number of complex issues and difficulties. Translation cannot always provide a satisfactory solution as legal terminology varies from legal system to legal system. Having this in mind in 1991 a terminology committee was set up with six members representing both language groups. They are in charge of developing and pooling legal terminology specific to South Tyrol. The committee aims at equivalence at both form and content level while paying close attention not only to diverging language structures but diverging legal traditions as well.

The European Academy in Bozen/Bolzano is also engaged in serious research activities concentrating on law and language at the same time. The objective of their work on legal terminology is to find solutions to legal and terminological difficulties arising from the special South Tyrolean context. They study and analyse several legal texts from German speaking countries in order to be able to reflect the Italian legal order through the German language. The Academy develops concrete strategies which are in turn used in translation, interpretation and specialised language training.

Future perspectives

Language policy in South Tyrol has been formulated along two guiding principles: the right to use the mother tongue in all public situations and the right to be provided education in the mother tongue. In order to adhere to these guidelines language policy within the province requires a legal framework which ensures certain rights to the language groups of the province and enforcing the regulations ensures compliance with the specific measures in question which also contributes to the protection of these language groups. The Autonomy Statute lays down the principle of parity between the Italian and German languages, it provides for the regulation of education in the minority languages of the territory, regulates the use of Ladin, contains provisions on the language of communication between public offices and the citizens and regulates the use of geographical names within the province. Another achievement is that equal rights and the proportionate representation of the language groups in official organisations/services is secured. These measures contribute to the fact that it is primarily the language factor that determines the protection of the German and Ladin minorities in South Tyrol. This leads to the conclusion that language issues are a key aspect of public and private life in South Tyrol, involving political, cultural, social or legal matters.

It must not be forgotten though that the autonomy also gives rise to problematic issues such as the integration of autonomy into the constitutional framework of the legal system. Also, there are further points of friction between the European Union's legal system and the autonomy regulations. In connection with EU law it is worth mentioning that the legal context in South Tyrol does not in all aspects have the Union's approval. One particularly problematic aspect is connected to the privilege attributed to Italian citizens in employment within the public sector. Under the Autonomy regulations South Tyrolean citizens are at a distinct advantage when it comes to employment. According to the EU's interpretation this

brings about discrimination since a difference is made between citizens based on their place of residence.

The right to use the mother tongue in front of court stems from the constitutional guarantees concerning the right to defence as well as minority protection. International law also contributes to these guarantees. However, it appears justified to scrutinise the question whether foreign citizens can also benefit from a procedure carried out in the mother tongue. (See Court of the European Communities, case Bickl – Franz C-274/96)

Besides legal harmonisation ethnic proportionality is also a key issue from the point of view of language rights, as the ethnic proportions within the population of the province are changing. Ethnic proportionality is limited to three language groups and does not take into account the true ethnic/linguistic composition of the territory. It does not seem impossible that the principles and measures relating to ethnic proportionality will be subject to change in the future. A further complexity arises from the criterion of bilingualism in the private sector, such as the pharmaceutical industry. Private enterprises cannot be constrained to introduce bilingual practices, however the lack of bilingualism may lead to serious negative consequences.

When discussing the potential debatable issues it must not be forgotten that the 1972 Autonomy Statute delegated several competences to the level of the province. Through the South Tyrolean process sensitive issues have been settled via a step-by-step policy and assimilation is not a threat any more. The autonomy created at province level guarantees that the German minority is empowered to make decisions on issues of its concern and this right to self-determination results in a certain degree of autonomy for the Ladin minority of South Tyrol as well. Language remains at the focal point of the South Tyrolean context, it counts as the basic criterion for ethnic identity. Since 1919 when South Tyrol was annexed to Italy, a unique administrative system has been established which acknowledges and justifies the simultaneous presence of three languages within the territory. The parity of languages guarantees that the different language groups live in peace side by side. What is needed now is an increase in tolerance, a more flexible approach which aims at preserving achievements as well as facilitating interethnic relations.

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