Chapter 13

The International Protection of Ethnic, National and Religious Minorities: The United Nations Framework

Katarzyna Zombory

'Some minority groups share another experience: that of separation or exclusion. While it is true that at times a group may deliberately choose to remain apart in order to protect its own way of life, it is more often true that minorities are confronted by barriers that keep them apart from the rest of society. While in such a context the minority group tends to become closed within itself, the majority group may foster a feeling of rejection towards this group as a whole or towards its individual members. When this happens, the latter are no longer in a position actively and creatively to contribute to building a peace based on the acceptance of legitimate differences.'

Pope John Paul II
Message for the celebration of the XXII World Day of Peace: 'To Build Peace, Respect Minorities'[1]

ABSTRACT

The protection of national minorities has been a highly sensitive issue in international law, evolving from the interwar regime for minority protection under the League of Nations to the contemporary legal framework under the auspices of the United Nations (UN). This paper examines the historical development and current state of minority protection at the universal level, emphasising the transition from the collective protection during the interwar period to the individual rights-based approach underlying the international human rights law. Although the UN has primarily relied on the principle of non-discrimination and equality for ensuring the rights of persons belonging to national minorities, the adoption of the 1966 International Covenant on Civil and Political Rights (ICCPR) explicitly recognised the cultural, linguistic and religious rights of minorities, and has become the most important binding universal standard on minority protection. The paper also explores the role of the Human Rights Committee (HRC) in shaping minority rights through its case law, which nevertheless focuses more on indigenous rights than minority rights, and has not addressed many cases from Central and Eastern Europe. With the intensive development of the European framework

1 John Paul II, 1989.

Katarzyna Zombory (2026) 'The International Protection of Ethnic, National and Religious Minorities: The United Nations Framework' in Jakab, N. (ed.) *Human Rights Protection of Vulnerable Groups*. Miskolc–Budapest: Central European Academic Publishing, pp. 559–600. https://doi.org/10.71009/2026.nj.hrpovg_13

CC BY NC ND

for minority protection in 1990s, national minorities achieved a higher level of recognition and more effective protection at the European level compared to the UN human rights system, nevertheless the standard-setting activity of the UN cannot be overestimated.

KEYWORDS
national minorities, minority rights, cultural rights, Human Rights Committee, Article 27 of the ICCPR

1. Introduction

The protection of the rights of national minorities is an inherent element of the contemporary discourse on human rights, civil society and cultural diversity.[2] Nonetheless, national minorities have long remained at the peripheries of international law, their protection being a highly sensitive topic both in international relations, and within the domestic political context as well. Being communities with a different national, cultural, linguistic, or religious identity from that of the majority population, national minorities have historically faced assimilation pressures, and cultural erasure, either within an induced and intended scheme, or through a voluntary adaptive process. The vulnerable situation of persons belonging to national minorities results from discriminative attitudes they might experience from the majority population and the host state itself, in areas such as employment, education, or political participation. Discriminatory practices hinder the minorities' full empowerment on the one hand, and the preservation of their distinct cultural identity on the other. The gradual loss of fundamental aspects of their minority identity, such as language, religion or cultural practices, poses a threat to their existence and cultural survival. All these factors induce the need of special legal protection for persons belonging to national minorities, to ensure that they can fully exercise their human rights, while at the same time safeguarding what makes them vulnerable, that is their distinct cultural identity and heritage.

This paper presents the main legal instruments adopted under the auspices of the United Nations (UN) to safeguard cultural identity and cultural existence of national minorities. Historically, the legal regime for protecting minority rights have first emerged within the universal system of human rights protection. Although the term "national minority" is more commonly used in the regional European instruments on minority rights[3] than in the UN documents, the author nevertheless refers to the protection of *national minorities*, as the term is deeply anchored in the legal culture of Central and Eastern Europe to describe persons with a national, linguistic, and

2 Recommended reading on the protection of national minorities in international law, among others: Thornberry, 1991; Kovács, 2000; Weller, 2007; Sándor-Szalay, 2022; Zombory, 2023b.
3 Examples include the Framework Convention for the Protection of National Minorities, adopted under the auspices of the Council of Europe on 1 February 1995 in Strasbourg, ETS. No 157, or the soft-law instruments issued by the High Commissioner on National Minorities of the Organization for Security and Co-operation in Europe.

cultural background different from that of the majority population in the country where they live permanently.

The first part of the paper focuses on the notion of national minority and minority rights to provide the reader with a conceptual foundation. The second part outlines the historical development of the legal framework for protecting minorities in international law, which began with the League of Nations' treaty system of minority protection and evolved further after World War II, from protecting national minorities as groups towards the protection of individual rights of persons belonging to minorities. The fourth section addresses the current legal framework for safeguarding minority rights within the UN human rights system, while the fifth part analyses the case-law of the Human Rights Committee in cases brought by members of national minorities. In the final part of the paper, the author presents a case study of South Tyrol, highlighting it as a positive example of how addressing a sensitive minority issue at the UN forum has resulted in the development of an effective bilateral framework for minority protection.

2. Protecting Whom and What? – The Concept of "Minority" and "Minority Rights"

The concept of national minority has not been clearly defined in international law. Attempts to agree on a universally accepted legal definition of "national minority" have not been successful, however, over the years, various definitions have emerged in scholarly literature, highlighting diverse aspects related to the existence of national minorities.[4]

The issue of defining national minorities was for a long time on the agenda of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities, established in 1947 (since 1999: the Sub-Commission on the Promotion and Protection of Human Rights). In 1979, the Sub-Commission's Special Rapporteur Francesco Capotorti presented a study, which contained one of the most recognised and widely accepted definitions of "minority":

> 'a group numerically inferior to the rest of the population of a state, in a non-dominant position, and whose members –being nationals of the State– possess ethnic, religious or linguistic characteristics differing from the rest of the population and show, if only implicitly, a sense of solidarity directed towards preserving their culture, traditions, religion or language.'[5]

4 For more on the concept and definition of national minorities, see e.g.: Heinze, 2006; Pentassuglia, 2000.
5 Capotorti, 1979, para. 568.

Capotorti's definition is an echo of the jurisprudence of the Permanent Court of International Justice (PCIJ), which, on behalf of the League of Nations, supervised the implementation of international obligations connected to minority protection in the interwar period. The PCIJ's position on the recognition of a national minority, according to which both objective and subjective criteria should be taken into account while determining the existence of a minority group, had a significant impact on the development of the concept of national minorities.[6] Objective criteria include the size of the minority in relation to majority population, as well as distinct ethnic, linguistic and religious characteristics of its members; while the subjective criteria refer to the sense of solidarity, sense of belonging to minority, and the desire to preserve the minority culture.

Given that there is no universally applicable definition of a national minority, international instruments on minority rights often indicate different types of social groups, such as ethnic, linguistic or religious minorities, which enjoy protection because of their special cultural characteristics.[7] The 1992 UN Declaration of the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities,[8] while being entirely dedicated to the protection of minorities, does not include a legal definition, instead lists four different types of minorities which enjoy international protection. The Commentary to the 1992 Declaration suggests that the term "national minority" is the most far-reaching among all of them, and enjoys the strongest protection. Persons belonging to a *national minority* have stronger rights compared to either ethnic, or religious, or linguistic minorities, that is the rights relating not only to their culture but to the preservation and development of their national identity as well.[9] However, under the UN instruments, minority groups other than national minorities, even if not officially recognised as such, can still enjoy protection as ethnic, religious or linguistic minorities, as almost every national minority, however defined, is also an ethnic or linguistic minority.[10]

An important element of the debate on minority protection is whether members of a national minority should be *citizens or permanent residents* of the state on the territory of which they live to be entitled for international protection. The continuity

6 See e.g. PCIJ, 1930.

7 See e.g. art. 27 of the International Covenant on Civil and Political Rights, adopted in New York on 16 December 1966, UN Treaty Series No. 14668.

8 *Declaration* on the Rights of Persons *Belonging to National or Ethnic*, Religious and Linguistic Minorities of 18 December 1992, UN GA Resolution 47/135, UN Doc E/CN.4/1992/48.

9 UN Working Group on Minorities, 2005, para. 6.

10 Ibid., paras. 6–8. Unlike the UN instruments, regional documents on minority rights in Europe, adopted under the auspices of the Council of Europe and the Organization for Security and Cooperation in Europe, use only the concept of "national minorities", without referring to "ethnic, religious or linguistic minorities". Therefore, when applying those instruments, it is necessary to define "national minority", but a similar problem does not arise for the United Nations documents on minority rights (art. 27 of the ICCPR, 1992 Declaration): even if a group is held not to constitute a national minority, it can still enjoy legal protection as an ethnic, religious or linguistic minority.

of settlement is related to the issue of the so-called *"new" minorities* (e.g. migrant workers), who, unlike historically settled national minorities, do not have permanent historical ties with the host state. The question of whether to protect immigrant populations as national minorities is a bone of contention both among scholars and in international politics. The UN Human Rights Committee (HRC) considers that the obligation to respect cultural rights of minorities applies to all residents of the state, who need not to be nationals or citizens, or even permanent residents to enjoy their minority rights. According to the HRC, migrant workers belonging to ethnic, religious or linguistic minorities or visitors to a country should enjoy equal protection as members of communities traditionally settled.[11] However, such a broad understanding of minority standards is not in line with the concepts developed over the years in academic literature, which emphasise the role of historical settlement among the requirements to be recognised as national minority.

Within the UN framework of minority protection, persons belonging to *indigenous peoples* also benefit from the protection afforded to national minorities.[12] It is assumed that persons belonging to indigenous peoples are fully entitled to claim the rights guaranteed in the instruments on national minorities.[13] As Marinkás points out, the rights of indigenous peoples have only come to the attention of the international community in the last four decades, but during that time they have achieved more than national minorities have in the more than six decades since 1945.[14] Bándi highlights a significant difference between the protection of the cultural rights of national minorities and those of the indigenous peoples. The so-called "Western countries", who continue to dominate the development of international law, including human rights law, have different attitudes towards granting protection to national minorities than towards protecting indigenous peoples, where the difference in approach can be explained with the number of affected persons, and the nature of their legal claims. Indigenous peoples, less significant in number than members of national minorities, and without state-building aspirations, are less challenging to grant rights to, unlike minorities who often seek self-determination and territorial autonomy, and are therefore considered as a potential threat to the integrity of the state. While the normative content of minority and indigenous rights shows similarities in terms of self-governance, cultural, and participatory rights, the barriers to harmonising these rights stem from political concerns rather than legal reasons.[15]

11 UN Human Rights Committee, 1994, para. 5.2.
12 UN Working Group on Minorities, 2005, para. 17. Indigenous peoples are considered to be descendants of the communities that inhabited a given country at the time of its conquest or colonisation, and who retain some or all of their own social, cultural, and political institutions, see Eide, 2006, p. 43. For elaborated accounts on the protection of indigenous peoples, see e.g. Hanson and Weller, 2018; Marinkás, 2016; Marinkás, 2018; Raisz, 2008; Zombory, 2023a.
13 UN Working Group on Minorities 2005, para. 17.
14 Marinkás, 2018, pp. 25–26.
15 Bándi, 2020, pp. 37–39.

The protection of national minorities is inextricably linked to the concept of safeguarding cultural identity. The need to ensure the protection of a distinct culture is at the heart of the international protection of all minority rights. The elements that make up cultural identity, such as language, religion, traditions and cultural heritage, are the basis for distinguishing national minorities as such.[16] The general term *minority rights* is often used to describe all those guarantees that are aimed at protecting various aspects of cultural identity. They might encompass, among others, the right to use the minority language in private and in the public sphere, including the right to learn a minority language and receive education in that language (linguistic rights), the right of the members of the minority group to establish their own educational institutions, the right to practice their own religion, the right to enjoy their own culture and participate in the cultural life of their community, freely and without interference or any form of discrimination.[17] In the international catalogue of human rights, the guarantees that aim to protect cultural identity, not only that of persons belonging to national minorities, are referred to as *cultural rights*. Cultural rights belong to the universal catalogue of human rights since the adoption of the Universal Declaration of Human Rights in 1948,[18] and are classified within the second generation of human rights.[19]

The development of the international framework for minority protection has, since the beginning, been accompanied by the debate over whether national minorities should be protected as a group, or whether the protection should be granted to individual members of the minority; a debate that ultimately pins down to the question whether minority rights are collective or individual in nature. Unlike during the interwar period, when specific minority groups were granted protection under international treaties, the contemporary international framework for minority protection recognises minority rights as individual rights, that is, rights which can be exercised

16 See art. 5 of the Framework Convention for the Protection of National Minorities, adopted under the auspices of the Council of Europe on 1 February 1995 in Strasbourg, ETS. No 157, which identifies religion, language, traditions and cultural heritage as the essential elements of the identity of national minorities.

17 See e.g. art. 2 of the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities; art. 27 of the ICCPR; art. 30 of the 1989 Convention on Children's Rights. The cultural life of the national minority should be understood broadly, to include language, faith, science, art, philosophy, law, customs, see e.g. Reidel, 2011, p. 414.

18 See Article 27 of the Universal Declaration of Human Rights, adopted by the UN General Assembly in Paris on 10 December 1948.

19 First-generation rights include rights the observance of which presupposes non-interference by the state in individual rights and freedoms. Political and civil rights fall into this category. Economic, social and cultural rights are second-generation, and their protection requires positive action by states. The third generation includes the so-called solidarity rights, the implementation of which requires the cooperation of the state and individuals. These are collective guarantees relating to aspects of community life, such as the right to peace, the right to development, the right to live in a clean environment and the right to the protection of cultural heritage. For more on the doctrinal categorisation of human rights, see Vasak, 1977, p. 29; Kardos, 2002, p. 29. On the classification of human rights in the literature on the subject, see e.g. Rosas and Scheinin, 1999, pp. 49–63.

individually, even though the cultural identity of persons belonging to a minority can only be understood within their community, and with its other members.[20] By protecting the rights of individual members of the minority, the collective identity of the entire group is also safeguarded, therefore, the protection of minority rights as collective rights takes place indirectly.[21] Minority rights are considered to be a compromise between individual and collective rights, which means that despite their individual nature, they should be exercised collectively.[22]

3. A Historical Overview of Protecting Minority Rights

3.1. The League of Nation's System of Minority Protection

The beginning of the protection of national minorities dates to the first half of the 20th century along with the creation of the League of Nation's system of minority protection.[23] Due to major territorial and geopolitical changes in Central and Eastern Europe following the peace agreements concluded after the First World War, it became essential to create a system for the effective legal protection of national minorities, both in the newly formed states and in the defeated states. The most notable territorial shifts resulted from the collapse of the multi-ethnic Austro-Hungarian monarchy and the Ottoman Empire. The borders of the countries created as a result of the collapse of both empires principally did not coincide with the borders set by the nationality structure of peoples inhabiting them. The U.S. President Woodrow Wilson, in his famous address to a Joint Session of Congress on the Conditions of Peace, containing a peace programme for post-war Europe (also known as 'The Fourteen Points'), drew attention to the importance of the national question for ensuring peace and security in Europe that should be taken into account during the peace negotiations after the First World War.[24] President Wilson urged for, among others, a readjustment of the

20 Sándor-Szalay, 2022, p. 164.
21 Ibid.
22 On considerations concerning the collective and individual dimension of minority rights, see also Heinze, 2006, pp. 85–86; Hannum, 2007, pp. 69–70.
23 In previous periods, the protection of minorities functioned in relation to the protection of religious minorities. The protection of religious minorities was provided for in the Westphalian Peace Treaty, concluded in 1648 in connection with the end of the Thirty Years' War. This treaty provided for equal rights for Lutheran, Catholic and Calvinist faiths in the territory of the German Reich and freedom to practice religion in relation to these three religious communities. Provisions concerning the protection of religious minorities were also included in the Peace of Oliwa, signed between Poland and Sweden in 1660. The protection of religious minorities was also provided for in the Treaty of Paris of 1763, which extended the protection to the French Catholic minority in British-controlled Canada. The treaty concluded in 1774 in Küçük Kaynarca between Russia and Turkey included provisions concerning the protection of the rights of the Orthodox minority on the Turkish territory. See Lerner, 2003, p. 25; Győri Szabó, 2006, pp. 82–83; Hannum, 2007, pp. 51–52. According to Muszyński, the roots of the protection of national minorities date back to the 4th-6th centuries in Asia Minor. Muszyński, 2022, p. 221.
24 Wilson, 1918.

frontiers of Italy along clearly recognisable lines of nationality (point IX), assuring the opportunity to autonomous development for the peoples of Austria-Hungary (point X), the establishment of relations among Balkan States along historically established lines of allegiance and nationality (point XI), and the creation of an independent Polish State which should include the territories inhabited by indisputably Polish populations, whose political and economic independence and territorial integrity should be guaranteed by international covenant (point XIII). Failure to fully address these demands adequately during peace negotiations after the First World War led to ethnic tensions in Central and Eastern Europe, as well as in the Balkans, some of which are still ongoing with varying intensity (e.g. the issue of the Hungarian minority in Romania and Slovakia, the ethnic tensions in the Balkan States).

During the Paris Conference, held from January 1919 to January 1920, the purpose of which was to draft a peace treaty ending the First World War, the issue of the protection of minority rights was treated as a matter requiring legal regulation. Its purpose was not only to guarantee the respect and protection for the national minorities themselves, but also in a broader sense to prevent separatist aspirations and protect stability in Europe. An overarching aim of creating protection regime after the First World War was to 'consolidate peace and understanding among nations'.[25] The architects of the League of Nation's system of minority protection hoped that 'the defeated countries would reconcile themselves more readily to the loss of territory they had suffered if the minority groups detached from them were well-treated and allowed to retain their culture and national characteristics'.[26] It was also anticipated that minorities that were satisfied with their lot would become loyal citizens of the states to which they had been transferred.

The Commission of New States, established in January 1919, was responsible for developing uniform rules on minority protection and tasked to draft the minority treaties. The work of the Commission laid the foundations for the creation of the League of Nation's system of minority protection, which should be understood as a system of legal regulations and a mechanism for the protection and investigation of violations of the rights of national minorities in countries covered by treaty obligations. The League of Nation's system was multi-layered, and consisted of (I) peace treaties signed with defeated states, (II) separate treaties on the protection of minorities signed with newly formed countries, annexed to the appropriate peace treaty, (III) declarations on respect for the rights of minorities made by countries later joining the League of Nations, as well as (IV) bilateral agreements regulating the situation of specific national minorities.[27] The Treaty of Versailles itself did not contain provisions on the protection of national minorities.[28]

25 UN Economic and Social Council, 1950, p. 42.
26 Ibid.
27 Muszyński, 2022, pp. 222–225; Sándor-Szalay, 2022.
28 Treaty of Peace between the Allied and Associated Powers and Germany, signed at Versailles on 28 June 1919.

The first group of treaties – peace treaties with the defeated states – were signed with four countries: with Austria (10 September 1919 in Saint-Germain-en-Laye), with Bulgaria (27 November 1919 in Neuilly-sur-Seine), with Hungary (4 June 1920 in Trianon) and with Turkey (24 July 1923 in Lausanne).[29] They contained similar obligations related to the protection of minority rights, such as the obligations to ensure religious freedoms, equality before the law, language rights, the implementation of which was subject to the control of the League of Nations.[30] Unlike other peace treaties, the treaty concluded with Turkey did not refer to the concept of ethnic or national minorities, but made a distinction between the Muslim population and non-Muslim minorities.[31] As a consequence of the application of the religious criterion, without regard to nationality, protection was not extended to Muslim population groups of non-Turkish origin, such as the Kurds.

The second group of treaties that made up the League of Nation's system of minority protection were minority treaties signed with the newly created countries after the collapse of the Austro-Hungarian monarchy and the Ottoman Empire. The first such treaty was concluded with Poland on 28 June 1919 in Versailles.[32] This so-called 'Little Treaty of Versailles' became a model for drafting altogether thirteen minority treaties during the Paris Peace Conference. Its adoption was a condition for recognising the new Polish State, imposed by the international community.[33] Other minority treaties included the treaty with Czechoslovakia (10 September 1919 in Saint Germain-en-Laye), the Kingdom of Serbs, Croats and Slovenes (10 September 1919 in St. Germain-en-Laye), Romania (9 December 1919 in Paris) and Greece (10 August 1920 in Sévres).[34] With regard to the protection of minority rights, these treaties provided for a similar scope of guarantees, ensuring the principle of non-discrimination,

29 Treaty between the Principal Allied and Associated Powers and Austria, signed at Saint-Germain-en-Laye, September 10, 1919; Treaty between the Principal Allied and Associated Powers and Bulgaria and its Protocol, signed at Neuilly-sur-Seine on 27 November 1919; Treaty of Peace between the Allied and Associated Powers and Hungary concluded in Trianon on 4 June 1920; Treaty of Peace with Turkey signed at Lausanne on 24 July 1923.

30 See e.g. provisions on the protection of minorities were in the Treaty with Bulgaria (Chapter IV, arts. 49 to 57), provisions on the protection of minorities in the Treaty with Hungary (Chapter VI, arts. 54 to 60), provisions on the protection of minorities were in the Treaty with Austria (Chapter V, arts. 62 to 69).

31 The Treaty uses the term 'Turkish nationals belonging to non-Muslim minorities', cf. arts. 39–41 of the Treaty of Lausanne. The first peace treaty concluded with Turkey on 10 August 1920 in Sèvres did not enter into force. After the Greco-Turkish War of 1919–1922 and the revolution of Kemal Atatürk, a new peace treaty was signed in 1923 in Lausanne.

32 Minorities Treaty between the Principal Allied and Associated Powers and Poland, signed at Versailles on 28 June 1919.

33 Muszyński, 2022, p. 227.

34 Peace Treaty concluded between the Allied and Associated Powers and Czechoslovakia concluded in Saint Germain-en-Laye on 10 September 1919; Peace Treaty concluded between the Allied and Associated Powers and the Kingdom of Serbs, Croats and Slovenes concluded in Saint Germain-en-Laye on 10 September 1919; Treaty between the Principal Allied and Associated Powers and Romania, concluded in Paris on 9 December 1919; Treaty concluded between the Allied and Associated Powers and Greece in Sévres on August 10, 1920.

freedom of religion, equality before the law, freedom to use the minority language in the private sphere, limited rights to use the language in the public sphere, the right to establish and maintain religious and educational institutions and primary education in the minority language. Some of the minority treaties laid down guarantees relating to specific ethnic or national groups, such as the Jewish minority (the treaties concluded with Poland, Lithuania and Greece), the Szeklers and Saxon minorities (religious and educational autonomy in the treaty concluded with Romania) or to specific regions, e.g. Transcarpathian Ruthenia (legislative autonomy in linguistic, educational, religious matters and local administration in the treaty concluded with Czechoslovakia).

In addition to peace treaties containing clauses on the protection of minorities and minority treaties, the interwar system of minority protection also consisted of declarations made when joining the League of Nations. Such declarations were made by: Finland (27 June 1921), Albania (2 October 1921), Lithuania (12 May 1922), Latvia (7 July 1923) and Estonia (17 September 1923). The content of the commitments assumed by individual states was prepared in consultation with the Council of the League of Nations. The declarations were not uniform and differed from the clauses in peace and minority treaties.

The League of Nation's system of minority protection was supplemented by bilateral agreements concerning the situation of particular national minorities, e.g. the Greek-Bulgarian agreement of 1919, the Yugoslavian-Romanian agreement of 1920, the treaty between Poland and the Free City of Danzig of 1920, the Finnish-Swedish agreement of 1921 concerning the autonomy of the Åland Islands, the Polish-German convention on Upper Silesia of 1922 and the Polish-Czechoslovak convention of 1925.

The peace treaties and minority treaties contained similar provisions governing the proceedings in case of violations of minority rights.[35] They emphasised the international nature of the commitments made by states in the area of minority protection. Their content and scope could not be changed without the consent of the majority of the members of the Council of the League of Nations. Supervision over the implementation of obligations concerning the protection of national minorities was entrusted to the League of Nations. The Council of the League and the Permanent Court of International Justice were to be the guarantors of the durability and implementation of the newly created system of minority protection.[36] However, the League of Nations was established primarily as an organisation of a system of collective security, and the protection of human rights, including the rights of national minorities, was not the basic area of international cooperation in this system.[37] The Covenant of the League

35 See e.g. art. 12. of the Treaty with Poland in 1919, art. 12 .of the Treaty with Romania in 1919, art. 69. of the Treaty with Austria of 1919, art. 60. of the Treaty with Hungary of 1920, art. 44. of the Treaty with Turkey of 1923.
36 Thornberry, 1999, p. 44.
37 Győri Szabó, 2006, p. 83.

of Nations, like the Treaty of Versailles, made no direct reference to the protection of minority rights.[38]

The rules of procedure for filing complaints concerning violation of treaty obligations were set out in the resolutions of the Council of the League of Nations adopted in 1920, 1921, 1923 and 1925.[39] Legitimacy to file a complaint to the League of Nations belonged to states, not the national minorities themselves. The complex procedure for handling complaints included, among others, a pre-screening procedure in the League Secretariat, investigation before the Committee of the Council of the League of Nations, following which the matter was examined by the Council. If no agreement was reached before the Council of the League of Nations, the case could be referred to the Permanent Court of International Justice, before which only states could stand as parties.

As Muszyński points out, the interwar system of minority protection encompassed rights which could be classified as (I) direct positive rights (the right to maintain identity, the right to use the mother tongue), (II) indirect positive rights (the right to the protection of life, the right to the protection of freedom) and (III) special rights (individual and collective).[40] The League of Nation's system of minority protection was complex but lacked effectiveness. It shaped the rights of minorities in various countries in different ways, imposing obligations on different countries unevenly.[41] Germany has not been covered by the treaty obligations in the field of the protection of national minorities, despite its status as a defeated state. Such commitments were not accepted by the allied powers (France, Great Britain, Italy), either. The asymmetry in international relations in this respect led to the interference of the stronger countries in the internal affairs of the newly formed and defeated countries (with the exception of Germany). The way in which complaints filed by individual minorities were dealt with was not fully objective and impartial.[42] Insufficient regulation and underestimation of the importance of national issues after the First World War are indicated as one of the reasons for the outbreak of Second World War.[43] However, the very fact that the issue of protecting national minorities appeared on the international agenda, and the first attempts to establish a catalogue of rights for minorities, are considered positive developments.[44]

38 The Covenant of the League of Nations, adopted on 28 June 1919 in Paris, constituting an integral part of the Treaty of Peace between the Allied and Associated Powers and Germany, signed in Versailles on 28 June 1919.

39 Resolution of the Council of the League of Nations of October 25, 1920; Resolution of the Council of the League of Nations of June 27, 1921; Resolution of the Council of the League of Nations of September 5, 1923; Resolution of the Council of the League of Nations of 10 June 1925, cited in Galántai, 1993, pp. 172–176.

40 Muszyński, 2022, p. 228.

41 See e.g. Győri Szabó, 2006, p. 86; Muszyński, 2022, p. 229.

42 Muszyński, 2022, p. 229.

43 Jackson-Preece, 2006, p. 508; UN Economic and Social Council, 1950, p. 42.

44 Hannum, 2007, p. 54.

3.2. Protection of the Rights of National Minorities After 1945

The protection of the rights of national minorities developed after the Second World War at the universal level was to be carried out on different principles than those in the interwar period. In 1950, the UN Economic and Social Council reported about the emerging concept of a general and universal protection of human rights and fundamental freedoms. Consequently, it was no longer only the minorities in certain countries which received protection, but all human beings in all countries who received international protection. Within this system, some special provisions in favour of certain minorities were still conceivable, but the minority issue was approached according to a different philosophy from that which shaped the League of Nation's minority regime after the First World War.[45] The concept of the protection of collective rights, underlying the League of Nation's system of minority protection, was replaced by the protection of individual rights. Unlike the peace treaties after the First World War, the peace treaties concluded after the Second World War did not address the issue of the protection of national minorities.

After 1945, the protection of the rights of persons belonging to national minorities was to be ensured by a system of universal protection of fundamental human rights, founded upon the principle of equality and non-discrimination.[46] Therefore, there was no direct reference to the protection of national minorities in the UN Charter.[47] The rights of national minorities were also not explicitly indicated in the Universal Declaration of Human Rights of 1948 – it was then considered that referring to the rights of minorities would contradict the universal character of the Declaration. The first international treaty at the universal level that contained provisions explicitly related to the protection of the rights of national minorities was adopted within the auspices of the United Nations Educational, Scientific and Cultural Organization (UNESCO). The Convention on Combating Discrimination in Education[48] of 1960, dedicated to promoting equality of educational opportunities, recognised the right of members of national minorities to carry on their own educational activities. A few years later, in 1966, another binding international instrument – the International Covenant on Civil and Political Rights – established the widest binding standards for minority protection at the universal level to date. In a single article, it provided persons belonging to minorities with the core rights necessary to preserve their national and cultural identity: the right to their own cultural life, religious freedom and the right to use their own language. The issue of minority protection returned to the UN agenda in the 1990s with the adoption *of the Declaration of the Rights of Persons Belonging* to *National* or *Ethnic*, *Religious* and *Linguistic Minorities in* 1992.

At the turn of the 20th and 21st centuries, the protection of national minorities at the universal level has primarily taken form of monitoring the implementation of

45 UN Economic and Social Council, 1950, p. 70.
46 Ibid.; Eide, 2007, p. 37.
47 Charter of the United Nations, adopted in San Francisco on 26 June 1945, XV UNCIO 335.
48 Convention on Combating Discrimination in Education, adopted in Paris on 14 December 1960, UNTS vol. 429, No. 6193.

states' obligations, without visible efforts to develop new international instruments. The key legal instruments adopted under the auspices of the UN establish special treaty bodies to monitor states' compliance with the international human rights obligations, primarily through the interpretation of treaty provisions and the examination of periodic reports of States Parties. Some of the treaty bodies are equipped with quasi-judicial powers enabling them to receive and consider individual communications (complaints) concerning violations of the provisions of the treaty.[49]

The Human Rights Committee, the treaty body established by the International Covenant on Civil and Political Rights (ICESCR), has the most extensive case-law and the greatest influence on the universal human rights system among all the UN treaty bodies, given that it was established under the 1966 Optional Protocol to the International Covenant on Civil and Political Rights.[50] Other treaty bodies have received the competence to examine individual complaints much later. The Committee on Economic, Social and Cultural Rights (CESCR) is competent to receive individual communications concerning alleged violations of the ICESCR, vis-à-vis states that have recognised its competence by ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.[51] The communication procedure before the CESCR is still of limited practical significance, given that relatively few states have ratified or acceded to the Optional Protocol so far. The Committee on the Rights of the Child has the competence to receive and consider individual communications based on the Optional Protocol to the Convention on the Rights of the Child in a communications procedure,[52] but its role in the protection of the rights of children belonging to national minorities via communication procedure is still limited.[53]

The UN human rights treaty system is complemented by several UN bodies with general competences in the field of monitoring human rights situation, such as the Human Rights Council, which carries out the Universal Periodic Review, a four-year cycle procedure to monitor the state of compliance with human rights obligations by all UN Member States.[54] The status of implementation of minority rights is also being monitored by UN bodies with the mandate connected specifically to the protection of national minorities. They include the UN Forum on Minority Issues UNFMI

49 Such as the Human Rights Committee (HRC, the treaty body established by the International Covenant on Civil and Political Rights), the Committee on Economic, Social and Cultural Rights (CESCR, the treaty body of the International Covenant on Economic, Social and Cultural Rights), or the Committee on the Rights of the Child (the treaty body established by the Convention on the Rights of the Child).

50 Optional Protocol to the International Covenant on Civil and Political Rights, adopted in New York on 16 December 1966, UNTS vol. 999, No. 14668.

51 Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, adopted in New York, 10 December 2008, UNTS vol. 2922, No. 14531.

52 Optional Protocol to the Convention on the rights of the child on a communications procedure, adopted in New York on 19 December 2011, UNTS vol. 2983, No. 27531.

53 For more on the significance of the Optional Protocol to the Convention on the Rights of the child on communication procedure, see Benyusz, 2024.

54 The Human Rights Council was established by the General Assembly Resolution 60/251 of 15 March 2006, UN Doc A/RES/60/251.

(former UN Working Group on National Minorities) established in 2007, as well as the office of the Special Rapporteur on Minority Issues (former Independent Expert on Minority Issues), established in 2014.[55] The mandate of the Special Rapporteur is to, *inter alia*, promote the implementation of the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, conduct consultations with governments and examine existing international standards and national legislation concerning minorities, as well as to examine ways and means of overcoming existing obstacles to the full and effective realisation of the rights of persons belonging to minorities.[56]

4. The UN Framework for Protection of National Minorities

4.1. The Principle of Non-Discrimination

The prohibition of discrimination and the related principle of equality has underlain the entire universal regime of human rights protection since its creation under the auspices of the UN. The Charter of United Nations, adopted in 1945, embodied the principles of respect of human rights and of non-discrimination on the grounds of race, sex, language or religion.[57] These principles were later upheld in the Universal Declaration of Human Rights,[58] and further developed in main international human rights instruments, such as the 1966 International Covenant on Civil and Political Rights (Article 2 paragraph 1) and International Covenant on Economic, Social and Cultural Rights (Article 2 paragraph 2), in which States Parties undertook to ensure to all individuals within their territory human rights without distinction of any kind, including race, colour, sex, language, religion, national or social origin. The 1965 International Convention on the Elimination of All Forms of Racial Discrimination (CERD)[59] provided even stronger protection against discrimination based on the grounds of ethnicity, as it prohibited

> 'any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life'.[60]

55 The mandate of the Special Rapporteur on minority issues was established by the Commission on Human Rights in its resolution 2005/79 of 21 April 2005.
56 Ibid.
57 Charter of the United Nations, see art. 1 para. 3, art. 13 para. 1(b), art. 55(c), art. 76(c).
58 Art. 7 of the Universal Declaration of Human Rights.
59 International Convention on the Elimination of All Forms of Racial Discrimination, adopted in New York on 7 March 1966, UN Treaty Series vol. 660, No. 9464.
60 Art. 1 para. 1. of the International Convention on the Elimination of All Forms of Racial Discrimination.

At the same time, it was recognised that special measures might be necessary to ensure adequate development and protection of certain racial or ethnic groups, allowing them and their members to fully exercise their human rights and fundamental freedoms on an equal basis.[61] Such special measures of protection, referred to as *affirmative action*, are not considered racial discrimination, and are allowed as long as they do not lead to the maintenance of separate rights for different racial groups. This has been reiterated in the 1992 UN Declaration of the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which underscores the states' obligation to implement special measures to ensure that persons belonging to minorities can fully and effectively exercise their human rights without any discrimination and in full equality before the law (Article 4 paragraph 1). Although states are generally obliged under international law to ensure that all members of society can exercise rights and freedoms on an equal basis, persons belonging to national minorities require particular attention, because of their special situation, meaning that they are often in a vulnerable position and have, in the past, often been subjected to discrimination.[62]

During the first decades of the development of the universal human rights framework, it was considered that the respect for the principle of equality and non-discrimination, which became the cornerstone of the international human rights regime, was already a significant benefit in minority protection, even without granting any special minority rights.[63] Therefore, the intensive efforts to codify international human rights law in the second half of the 20th century at the universal level did not focus on adopting an international treaty entirely dedicated to the protection of minority rights. Specific provisions on minority protection were included as a single article in general human rights treaties, such as the 1996 International Covenant on Civil and Political Rights and the 1989 Convention on the Rights of the Child.

4.2. Specific National Minority Provisions in Un Documents

Chronologically, the first special provisions regarding the rights of national minorities at the universal level were related to the protection of linguistic and educational rights. The 1960 UNESCO Convention on Combating Discrimination in Education, recognised the right of members of national minorities to conduct their own educational activities, including the establishment of schools and, the use or the teaching of their own language (Article 5 paragraph 1(c)). It set forth two important conditions. First, it stipulated that this right should not be exercised in a way that prevents members of national minorities from understanding the culture and language of the dominant population and from participating in its activities, or in a manner which prejudices national sovereignty. Second, it required that the standard of education

61 See art. 1 para. 4. of the International Convention on the Elimination of All Forms of Racial Discrimination.

62 UN Working Group on Minorities, 2005, para. 55.

63 See UN Economic and Social Council, 2005, p. 42; see also Szalai, 2018, pp. 523–524.

in minority institutions should not be lower than the general standard set by the competent authorities, and that the attendance at such schools should be optional.

The most notable foundation for specific regulations regarding the right of minorities to uphold and safeguard their cultural identity can be found in the 1966 International Covenant on Civil and Political Rights. Its Article 27 provides that

> '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.'

Article 27 of the ICCPR established cultural rights of persons belonging to national minorities, including linguistic rights and religious freedoms, necessary to ensure the survival and continuity of the development of their cultural, religious and social identity.[64] These guarantees are different from, and additional to, all the other rights that members of minorities are already entitled to under the ICCPR, just like all other individuals.[65] The personal scope of application of Article 27 of the ICCPR is broad, as the rights guaranteed therein are also granted to members of minorities who are not citizens of the States Party or its permanent residents. According to the HRC, the existence of an ethnic, religious or linguistic minority in a given state does not depend upon a decision by that States Party but requires to be established by objective criteria.[66]

The specific rights of national minorities to safeguard their cultural identity, language and religion, have also been enshrined in the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious, and Linguistic Minorities. The Declaration is an important development of the universal standards for the minority protection included in Article 27 of the ICCPR, however, unlike the latter one, it does not have a binding legal force. The legal framework for minority protection under the 1992 Declaration is based on four principles: protection of the existence, non-exclusion, non-discrimination and non-assimilation of the national minorities.[67] Both, Article 27 of the ICCPR, as well as the (non-binding) provisions of the 1992 Declaration require from the state that it abstains from policies aiming at or resulting in the assimilation of minorities into the dominant culture; moreover, they oblige the state to protect members of minorities against activities by third parties which have an assimilatory effect.[68] Therefore, protective measures are necessary not only

64 UN Human Rights Committee, 1994, para. 9. The HRC considers that culture can manifest itself in many forms, which is why protection should also be extended to traditional activities and ways of life related to, for example, the use of natural resources and environment. See ibid., paras. 3.2, 7.
65 Ibid., paras. 1, 9.
66 Ibid., paras 5.1, 5.2.
67 UN Working Group on Minorities, 2005, para. 23.
68 UN Working Group on Minorities, 2005, para. 28.

against actions taken by the state party itself, but also against actions by individuals and entities within the States Party.[69]

The 1992 Declaration imposes on the states a positive obligation to protect the identity of national minorities. Article 1 paragraph 1 states that 'States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity'. Article 1 paragraph 2 adds that 'states shall adopt appropriate legislative and other measures to achieve those ends.' The protection of minority identity requires from the states four types of conduct: protection of the existence of the group, protection against exclusion, protection against discrimination, and protection against assimilation.[70] The 'existence of the group' should be understood as the physical presence of minorities, the continuity of their settlement in the area in which they are present, and constant access to material resources needed for survival. The protection of existence goes beyond the obligation to refrain from destroying or deliberately weakening minority groups, but it also requires respect for and protection of religious and cultural heritage important to their group identity, including institutions such as libraries and churches.[71] The protection of the group identity of minorities requires both tolerance and respect for their distinctiveness by the state and the rest of society. The state should refrain from activities that may lead to assimilation into the dominant culture, but should also ensure the protection of minorities against such actions by third parties.[72]

The educational and language policy of the state is crucial from the perspective of protecting minority identity. Depriving minorities of the opportunity to learn their own language and receive instruction in this language, or eliminating from their teaching the possibility of imparting knowledge about their own culture, history, tradition and language, amount to a breach of the obligation to protect the cultural identity of the minorities.[73] The protection of minority language rights under Article 1 of the 1992 Declaration includes the states' obligation to take positive action to protect the minority language and to provide the conditions for fostering linguistic identity. The minimum scope of obligations for states is the adoption of measures guaranteeing the protection of the right of members of minorities to use the minority language freely in the private sphere. Article 1 of the Declaration, however, does not imply an obligation on the state to take action to ensure the possibility of using the minority language in the public sphere, that is in contacts with state authorities.[74]

69 UN Human Rights Committee, 1994, para. 6.1.
70 See UN Working Group on Minorities, 2005, para. 23, according to which minority protection is based on four requirements: protection of the existence, non-exclusion, non-discrimination and non-assimilation of the groups concerned.
71 UN Working Group on Minorities, 2005, para. 24.
72 Ibid., para. 28.
73 Ibid.
74 de Varennes, 1997, pp. 12–13.

Article 2 paragraph 1 of the Declaration lays down explicitly the right of persons belonging to minorities to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination. These provisions directly refer to Article 27 of the ICCPR. The wording used in the Declaration clearly indicates the existence of the right, while the ICCPR uses a negative construction ('persons belonging to such minorities shall not be denied the right'). Notwithstanding the drafting differences, the provisions of both documents require the state to take action beyond non-interference with the rights of members of minorities.[75] Article 2 paragraph 2 of the Declaration guarantees minorities the right to participate in cultural, religious, social, economic and public life, and it should be understood primarily in relation to the life of society as a whole.[76] Participation in the public life of society is essential for persons belonging to minorities and can be achieved for example, by setting up their own associations (Article 2 paragraph 4) and by establishing and maintaining free and peaceful contacts with other members of the minority, including contacts across frontiers (Article 2 paragraph 5). The right to participate requires the inclusion of members of minorities in decision-making processes at a national and regional level, especially on matters concerning them (Article 2 paragraph 3).

Article 2 of the 1992 Declaration does not impose on the state the obligation to provide public services in the minority language, but requires of the states to refrain from interference that would prevent members of minorities from using their language freely in the private sphere.[77] In this context, all aspects related to the use of language in the private sphere are protected, including the right to a name and surname in the minority language, the right to private communication in the minority language, both orally and in writing, and the right to use the minority language by private media. The use of language by collective private entities, such as cultural or political associations or educational institutions, is also protected.[78]

Article 4 of the 1992 Declaration obliges states to create favourable conditions to ensure that persons belonging to minorities can express their characteristics and develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards. Article 4 paragraph 3 stipulates that states should take appropriate measures so that, wherever possible, persons belonging to minorities have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue. Article 4 implies a general obligation of the states to take account of the linguistic needs of minorities in the field of education.[79] In cases where the minority language is a regional language, traditionally used by a large number of people in a given region of

75 See UN Human Rights Committee, 1994, para. 6.1; UN Working Group on Minorities, 2005, para. 33.
76 UN Working Group on Minorities, 2005, paras. 35–36.
77 Ibid., para. 21.
78 Ibid., paras. 27–29.
79 Ibid., para. 50.

the state, the state should allocate the maximum available resources to guarantee the protection of the linguistic identity of the minority.[80]

The Convention on the Rights of the Child adopted in 1989[81] was another international instrument adopted under the auspices of the UN, which introduced specific provisions aimed at safeguarding cultural identity of persons belonging to national minorities, with a particular focus on children. Its drafters in the Preamble emphasised the importance of the traditions and cultural values of each nation for the protection and harmonious development of the child. Article 8 of the UN CRC recognises every child's right to preserve his or her identity and obliges the states to respect the child's identity without unlawful interference. Article 8 lists only some elements of the child's identity, notably name, nationality and family relations. However, the Committee on the Rights of the Child holds that the child's identity should be construed in a much broader sense, which also includes national origin, religion and beliefs, as well as cultural identity.[82] Article 20 paragraph 3 of the UN CRC explicitly refers to the preservation of cultural identity in the context of placing the child in alternative care. It requires that state authorities pay due regard to the child's ethnic, religious, cultural and linguistic background when considering solutions for protecting a child deprived of his or her family environment.

Article 30 of the UN CRC, modelled on Article 27 of the ICCPR, addresses the rights of children belonging to national minorities and indigenous peoples.[83] It provides that

> 'in those states in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.'

Article 30 of the UN CRC requires from the states to take positive measures in order to protect the cultural identity, language or religion of a national minority or indigenous group, both in terms of actively fulfilling the right, and to protect against interferences by third parties.[84] The protective obligations stemming from Article 30 of the UN CRC encompass the duty of States Parties to identify the ethnic, religious or linguistic minorities and indigenous groups existing within their jurisdiction.[85] The limits of the enjoyment of rights protected under Article 30 are delineated by the existing human

80 UN Working Group on Minorities, 2005, para. 61.
81 Convention on the Rights of the Child adopted by the UN General Assembly on 20 November 1989, UNTS, No. 27531.
82 UN Committee on the Rights of the Child, 2013a, para. 55.
83 For more on the rights of children belonging to national minorities and indigenous peoples, see Zombory, 2025; Espejo-Yaksic, 2019.
84 UN Committee on the Rights of the Child, 2009, para. 17; Hodgkin and Newell, 2007, p. 456.
85 UN Committee on the Rights of the Child, 1996, para. 166.

rights framework, therefore, cultural practices of the given community cannot justify practices that are prejudicial to the child's dignity, health or development. Harmful cultural or religious practices, such as female genital mutilation or early marriages, do not enjoy protection under minority rights.[86]

Article 31 of the UN CRC recognises the right of the child to participate freely in cultural life and the arts. It obliges the states to respect and promote the right of the child to participate fully in cultural and artistic life, and to encourage the provision of equal opportunities for cultural and artistic activity. Involvement of children in the cultural life of their community is an important element of the child's sense of belonging to this community. Children inherit the cultural and artistic life of their families, communities and society, and in the process, they discover and shape their own identity.[87] Participation in cultural life and artistic activities is necessary to create in the child a sense of awareness of his or her own culture and respect for other traditions. Not only does it broaden the child's horizons and foster learning from other cultures, but it also allows the child to express his or her distinct identity. The Committee on the Rights of the Child has emphasised that children belonging to minorities or indigenous communities require special attention in connection with the exercise of the rights guaranteed in Article 31 of the UN CRC, which may be hindered, for example, by ethnic, racial or religious discrimination, assimilation policies, hostility, rejection or aggression. Children from ethnic, religious or linguistic minorities should be encouraged to use their own culture and participate in the cultural life of their community. The state should respect the cultural distinctiveness of such children and enable them the possibility participate in artistic activities and cultural life reflecting their own language, religion and culture on an equal footing with other children.[88]

4.3. Everyone's Right to Participate in Cultural Life

In addition to the general principle of non-discrimination and the specific minority rights enshrined in various binding and non-binding UN instruments, cultural rights of national minorities can be protected through the right to participate in cultural life – a right every individual is entitled to regardless of whether they belonging to a national minority. The provisions guaranteeing this right in general human rights treaties are not limited to members of minority groups. However, for persons belonging to national minorities and indigenous peoples, the protection of a distinct cultural identity can only be achieved through participation in the cultural life of their community together with other members. According to the CESCR, the right to participate in cultural life includes the right of national minorities to preserve and develop their cultural identity.[89]

86 UN Committee on the Rights of the Child, 2009, para. 22.
87 UN Committee on the Rights of the Child, 2013b, para. 11.
88 Ibid., para. 28.
89 UN Committee on Economic, Social and Cultural Rights, 2009.

The first document adopted under the auspices of the United Nations which contained provisions on participation in cultural life was the Universal Declaration of Human Rights of 1948 (UDHR).[90] Article 27 paragraph 1 of the UDHR guaranteed that 'everyone has the right to freely participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.' States have decided to include the right to participate in cultural life in the catalogue of rights guaranteed in the UDHR due to the importance of culture as an essential aspect of human life.[91] At the time of adopting the UDHR, culture was treated as an elite phenomenon and identified with the so-called high culture, associated with art and literature, which only the social and intellectual elites had access to.[92] Article 27 paragraph 1 of the UDHR was intended to encourage states to take action to popularise culture and promote access to it among average consumers. The term 'the right to freely participate in the cultural life of the community' used in the UDHR referred to the society as a whole. The right of persons belonging to national minorities to participate in the cultural life, local or indigenous communities remained outside the scope of Article 27 paragraph 1 of the UDHR.

In 1966, with the adoption of the ICESCR, the right to participate in cultural life has received protection in a binding international document, under Article 15 paragraph 1(a) of the ICESCR.[93] Initially, similarly to Article 27 paragraph 1 of the UDHR, Article 15 of the ICESCR was also interpreted in relation to the dominant culture.[94] This view was revised the by the CESCR in the early 1990s. The understanding of the right to participate in cultural life was then extended to include 'the right of every person to participate in the cultural life which he or she considers pertinent, and to manifest his or her own culture'.[95] The States Parties to the ICESCR were obliged to indicate in their periodic reports what measures they have taken to promote cultural identity as a factor of mutual understanding between individuals, groups, nations and regions, and to promote awareness of and use of the cultural heritage of ethnic groups, minorities and indigenous peoples.

The General Comment on Article 15 paragraph 1(a) of the ICESCR, issued by the CESCR in 2009, refers to the broad meaning of the terms "culture" and "cultural

90 Art. 27(1) of the UDHR states that 'every person has the right to freely participate in the cultural life of society, to enjoy the arts, to participate in the progress of science and to enjoy its benefits', while pursuant to art. 15(1)(a) of the ICCPR, 'the States Parties to the Covenant recognise the right of everyone to participate in cultural life'.

91 Donders, 2008, p. 3.

92 Ibid, pp. 3–4, see also Holt, 2007, p. 218.

93 Art. 15 para. 1(a) of the ICESCR states that 'The States Parties to the present Covenant recognize the right of everyone: (a) To take part in cultural life'.

94 Holt, 2007, p. 218; Donders, 2008, p. 4.

95 Revised General Guidelines regarding the form and contents of reports to be submitted by States Parties under arts. 16 and 17 of the International Covenant on Economic, Social and Cultural Rights of 17 June 1990, E/C.12/1991/1, see the guidelines concerning the implementation of art. 15 of the ICESCR.

life".[96] The definition of culture developed by the CESCR for the purpose of Article 15 paragraph 1(a) of the ICESCR includes, among others, various ways of life, language, written and oral literature, music and songs, non-verbal communication, religion and belief system, rituals and ceremonies, natural and man-made environment, cuisine, clothing, art, customs and traditions through which individuals, groups and communities express their humanity and meaning, which they attribute to their existence, and build their worldview.

The CESCR expressly held that Article 15 paragraph 1(a) also includes the right of minorities and persons belonging to minorities to participate in the cultural life of society, as well as to preserve, promote and develop their own culture. Corresponding to this right is the duty of the state to identify, respect and protect minority cultures.[97] The right of minorities to participate in cultural life includes all forms of expression of their cultural identity, including traditions, customs, religion and language. In the case of indigenous peoples, the right to participate in cultural life also includes the right to land and natural resources owned or traditionally used by such peoples.[98]

The core obligation of the states in relation the right to participate in cultural life is the obligation to create and promote an environment within which a person individually, or within a community or group, can participate in the culture of their choice.[99] Obligations of the state also include respecting the right of every person to choose their own cultural identity and to have their choice respected, protecting the right of each person to participate in their own cultural practices, eliminating obstacles to having access to their own culture and to other cultures, and enabling persons belonging to minorities and indigenous peoples to participate in the adoption and implementation of legislation and policies that affect them.[100]

The CESCR highlights the importance of the right to freely choose one's cultural identity, including the right to protection against forced assimilation and discrimination based on cultural identity. Other protected values include the right to freedom of opinion and expression in the language of one's choice, as well as access to one's own cultural and linguistic heritage. In this regard, the CESCR declares that states have a duty to respect the free access of minorities to their own culture, heritage and other forms of expression, as well as the free exercise of their cultural identity and practices.[101] These obligations require the state to take positive action, including financing, that will enable the exercise of the right to participate in cultural life. These activities should aim at the adoption of policies to protect and promote cultural diversity and

96 UN Committee on Economic, Social and Cultural Rights, 2009, para. 10.
97 UN Committee on Economic, Social and Cultural Rights, 2009, para. 32.
98 In General Comment No. 26 on land and economic, social, and cultural rights, the CESCR took a far-reaching approach on the implementation of art. 15 para. 1(a) of the ICESCR in connection with land rights and cultural rights of indigenous peoples, see UN Committee on Economic, Social and Cultural Rights, 2022.
99 UN Committee on Economic, Social and Cultural Rights, 2009, para. 55.
100 Ibid., paras. 49, 55.
101 Ibid., para. 49.

facilitate access to various forms of cultural expression. Cultural diversity should also be fostered through public media in minority and regional languages. The states should support the exercise by members of national minorities of the freedom of association, in order to better exercise their cultural and linguistic rights.[102]

The relationship between Article 15 of the ICESCR and Article 27 of the ICCPR can be described as one in which their provisions reinforce and complement each other. Otherwise, Article 27 of the ICCPR can be interpreted as *lex specialis* in relation to Article 15 of the ICESCR.[103] According to Capotorti, states are obliged to ensure the rights guaranteed by Article 15 of the ICESCR with respect to the culture of national minorities located on their territory.[104]

In the universal system of human rights, ensuring the enjoyment of the right to cultural participation is closely related to the mandate of UNESCO. Several documents refer to the cultural rights in the context of minority protection, albeit all of them are soft-law instruments. These are, among others, the 1976 Recommendation on Freedom of Cultural Participation, the 1978 Declaration on Race and Racial Prejudice, the 1982 Mexico City Declaration on Cultural Policy.[105]

4.4. The Case-Law of the Human Rights Committee on Minority Rights

The HRC is a treaty body monitoring the implementation of the International Covenant on Civil and Political Rights by its States Parties. Based on the first Optional Protocol to the ICCPR from 1966 (OP1-ICCPR), the HRC has the competence to receive and consider individual communications (complaints), from or on behalf of a person(s) claiming to be victims of a violation of the ICCPR by a States Party. The HRC's extensive case law regarding the rights of persons belonging to ethnic, religious, or linguistic minorities has developed around complaints filed by indigenous peoples concerning the violation of Article 27 of the ICCPR in connection with of the right to the traditional use of land and natural resources.

The relationship between the right to land and the culture of a given community were examined by the HRC in the case *Lubicon Lake Band v. Canada* in 1990.[106] Bernard Ominayak, the chief of the indigenous Indian community in Canada, claimed on behalf of the entire tribe a violation of the right to self-determination, guaranteed in Article 1 of the ICCPR. The Canadian government, despite officially recognising the right of indigenous tribes to a traditional way of life, allowed the provincial government to expropriate tribal members from their lands for the benefit of private mining

102 Ibid., para. 52.
103 Groni, 2008, p. 11.
104 Capotorti, 1976, p. 3.
105 Recommendation on Participation by the People at Large in Cultural Life and their Contribution to it, adopted in Nairobi on 26 November 1976, UNESDOC CC.88/WS/34, Declaration on Race and Racial Prejudice, adopted in Paris on 27 November 1978, E/CN.4/Sub.2/1982/2/Add.1, annex V (1982); Mexico City Declaration on Cultural Policies, adopted in Mexico City in 1982, UNESDOC CLT/MD/1.
106 HRC, *Chief Bernard Ominayak and Lubicon Lake Band v. Canada*, decision of 26 March 1990, communication no. 167/1984.

companies. The applicant alleged that Canada had violated the tribe's right to freely determine its political status and its right to economic, social and cultural development, as guaranteed by Article 1 paragraph 1 of the ICCPR. He also referred to the violation of the tribe's right to dispose of its own resources, which is protected under Article 1 paragraph 2 of the ICCPR. In the applicant's view, the Lubicon Lake tribe was deprived of its own means of subsistence and the right to self-determination.

The HRC noted that the applicant as an individual cannot be a victim of a violation of the right to self-determination, which in the light of Article 1 of the ICCPR is vested in group entities (peoples). At the same time, the right to self-determination may not be asserted in the manner provided for in the OP1-ICCPR, that is by way of an individual complaint to the HRC.[107] However, the circumstances of the case undoubtedly fall within the scope of Article 27 of the ICCPR. According to the HRC, the guarantees under Article 27 include the right to carry out economic and social activities that are part of the culture of a given community[108]. Consequently, the Committee concluded that 'historical inequalities [...] and some recent events pose a threat to the way of life and culture of the Lubicon Lake tribe and constitute a violation of Article 27 for as long as they occur.'[109]

The HRC adopted a dynamic and comprehensive interpretation of the right to safeguard cultural identity, including traditional ways of using land and natural resources, in connection with the Sami population in Northern Europe. In *Ivan Kitok v. Sweden* (1988),[110] the HRC considered a complaint of a Swedish citizen belonging to the Sami ethnic minority. The traditional activities of this population include, among others, reindeer herding. The HRC acknowledged that, in principle, the regulation of economic activities falls within the exclusive competence of the state, however, in a situation where such activity is an essential element of the culture of an ethnic community – as in the case of Sami – it may fall within the scope of Article 27 of the ICCPR.[111]

The HRC analysed the state's interference in terms of its impact on the ability of members of minorities to exercise their rights in two other cases of members of the Sami minority, claiming the right to enjoy culture under Article 27 of the ICCPR. In *Ilmari Länsman v. Finland* (1994) and *Jouni E. Länsman v. Finland* (1996),[112] the HRC

107 Ibid., paras. 13.3, 32.1.
108 Ibid., para. 32.2.
109 Ibid., para. 33. For an extensive analysis concerning the right to safeguarding cultural identity by members of Indian tribes in North America in connection with the right to live in a reserve, see also: HRC, *Sandra Lovelace v. Canada*, decision of 30 July 1981, communication no. R.6/24, in which the HRC found that the applicant's right to enjoy her culture was interfered with because there were no communities outside of the reserve that share the same language and culture.
110 HRC *Ivan Kitok v. Sweden*, decision of 27 July 1988, communication No. 197/1985.
111 Ibid., para. 9.2.
112 HRC, *Ilmari Länsman and Others v. Finland*, decision of 26 October 1994, communication No. 511/1992; HRC, *Jouni E. Länsman and Others v. Finland*, decision of 30 October 1996, communication No. 671/1995.

considered complaints brought by Sami reindeer herders concerning the right to enjoy their own Sami culture, which is largely based on traditional herding. According to the applicants, their right to their own cultural life was infringed by the state, which had authorised private operators to build quarries, cut down trees and build roads in reindeer grazing areas. According to the HRC, the state intervention did not have a significant impact on the applicants' activities in the field of breeding, and therefore did not constitute a violation of Article 27 of the ICCPR. The HRC took the view that measures which have only a limited impact on the way of life of people belonging to minorities do not necessarily mean a violation of the minority's rights to their own culture.[113] In *Ilmari Länsman v. Finland*, the applicants argued that the area where the quarries had been established was a sacred place according to Sami beliefs. The HRC analysed the case by examining whether the extraction of the stone did in fact prevent the applicants from exercising their right to their own culture in the region concerned.[114] The HRC found that the extraction of stone on the traditional land of the Sami populations in the quantities in which it has occurred so far had not constituted a denial of the authors' right to enjoy their own culture, guaranteed under Article 27 of the ICCPR.[115]

The HRC further developed its approach towards the protection of minority right to their own cultural life in *Ángela Poma Poma v. Peru* (2009).[116] The HRC decided that in order for the state to take actions affecting the traditional activities of minorities, it is necessary to obtain the prior consent of its members. The applicant, Ángela Poma Poma, a Peruvian national from the community of Aymara, ran an alpaca and llama farm with her family. The applicant's farm was located at an altitude of 4000 m above sea level, where there were suitable pastures and groundwater underground springs that brought water to the highland wetlands. In the 1950s, the Peruvian government diverted the course of the Uchusuma River, which resulted in a partial cut-off of the water supply to the wetlands on the pastures owned by the applicant. However, the water supply was provided from springs located in another part of the grazing field. Later, the state authorities commissioned drillings that had led to a significant reduction in the supply of drinking water and water necessary for farming on the applicant's grazing field. According to the applicant, as a result of the state's actions, the wetlands on which llamas were bred gradually dried up. For the families concerned, who were descendants of the Aymara people, llama breeding had been part of their way of life, customs and traditions for thousands of years. As a result of the significant reduction in livestock, the community lost its only source of livelihood. The state's actions also had a negative impact on the private and family life of the community, which consisted of customs, social relations, the Aymara language, and methods of breeding and caring for animals. Consequently, the applicant alleged that the Peruvian

113 *Ilmari Länsman v. Finland*, para. 9.4.
114 Ibid., para. 9.5.
115 Ibid., para. 9.6.
116 HRC, *Ángela Poma Poma v. Peru*, decision of 27 March 2009, communication No. 1457/2006.

Government had infringed the following provisions of the ICCPR: Article 1 paragraph 2 (right to freely dispose of natural resources), Article 2 paragraph 3(a) (right to an effective remedy), Article 14 paragraph 1 (right to a fair trial) and Article 17 (right to respect for family and private life).

The HRC analysed whether the state's activities related to the abstraction of water which led to the destruction of the applicant's land infringed her rights under Article 27 of the ICCPR. The applicant was a member of an ethnic minority, for whom llama breeding was an essential element of the culture, and constituted a form of survival and a tradition passed down from parents to children.[117] The HRC referred to its previous case-law, which demonstrated that not every state interference is a violation of the rights of minorities guaranteed in Article 27 of the ICCPR, but only interference that constitutes a refusal to exercise the right of a given community to enjoy its own culture can be considered as such. However, the case also introduced a new element to the HRC's case-law on the protection of cultural rights in the context of traditional economic activities. In the HRC's view, the legal assessment of measures that significantly interfere with the economic activities of cultural importance for a minority or indigenous community depends on whether members of the community have had the opportunity to participate in the decision-making process and expressed their views on these measures. When assessing the measures, it should be taken into account whether members of the community will still be able to benefit from traditional economic activities.[118] At the same time, the HRC defined the conditions that should be met by the participation of minorities in the decision-making process. Effective participation requires both consultation with the community concerned and the free, prior and informed consent of the members of the minority.[119] State interference should be proportionate so that it does not threaten the existence of the community.[120]

In the case in question, the applicant and other members of her community were not involved by the government in the decision-making process on well drilling. Nor have independent studies been commissioned on the impact of well construction on traditional economic activities, and no measures have been taken to mitigate or remedy the negative consequences. The Committee found that Article 27 of the ICCPR had been violated on the grounds that the state's actions significantly negatively

117 Ibid., para. 7.3.
118 Ibid., para. 7.6.
119 The principle of the free, prior and informed consent, explicitly recognised in the 2006 UN Declaration on the Rights of Indigenous Peoples, requires the states to consult and cooperate in good faith with the indigenous peoples, before adopting and implementing legislative or administrative measures that may affect them, especially in case of the projects that affect indigenous communities' rights to land, such as mining and or other exploitation of natural resources, see e.g. arts. 19, 28, 29, 32 of the 2006 UN Declaration on the Rights of Indigenous Peoples.
120 *Ángela Poma Poma v. Peru*, para. 7.6.

affected the applicant's way of life and culture, and violated her right to enjoy her own culture with other members of her group.[121]

More recently, the HRC has considered complaints about the violation of minority rights guaranteed in Article 27 of the ICCPR in the context of the protection of political rights under Article 25 of the ICCPR. In *Sanila-Aikio v. Finland* (2017)[122] and *Käkkäläjärvi and Others v. Finland* (2018),[123] the HRC examined complaints from members of the Sami community concerning unlawful state interference in the process of establishing the electoral roll entitled to vote in elections to the representative body of the Sami population (autonomous Sami Parliament).

The Sami Parliament is central to the cultural and linguistic autonomy of the Finnish Sami people, guaranteed by the Constitution of Finland, and its composition and competences are defined in Act No 974/1995 on the Sami Parliament. According to the statutory regulations, the task of the Parliament is to 'take care of the Sami language and culture, as well as care for matters related to their status as indigenous peoples'.[124] The Act No 974/1995 contains a legal definition to determine who can be considered a member of the Sámi community for the purposes of being admitted to vote in elections to the Sámi Parliament. This definition was constructed by combining a subjective criterion (a sense of belonging to the Sami) and objective criteria (e.g. the Sami language as the mother tongue of a given person or one of his ancestors). Before each election, the Electoral Commission of the Sami Parliament establishes a list of voters entitled to vote, and those who are not included in it can apply to be added to the electoral roll. The decision in this respect is taken by the Electoral Commission and the Board of the Sami Parliament, using the criteria set out in the statutory definition contained in the Act on the Sami Parliament when assessing whether applicants have the right to stand for election. This decision is subject to judicial review by the Supreme Administrative Court of Finland.

After 2011, the earlier practice of the Supreme Administrative Court, according to which while interpreting the statutory definition of Sami, both subjective and objective criteria should be taken into account, had changed. In 2015, 93 such persons were nevertheless allowed to vote in the elections to the Sami Parliament, whose applications to be added to the electoral roll had not been approved by the autonomous bodies of the Sami community, because they had not met the objective criteria for recognition as a member of this community. However by the decision of the Supreme Administrative Court, which had overruled the decision of the Sami autonomous bodies, they obtained the right to stand for election solely due to their subjective sense

121 Ibid., para. 7.7. The HRC refrained from examining the infringement of the applicant's right to respect for family and private life.

122 HRC, *Tina Sanila-Aikio v. Finland*, decision on admissibility adopted on 28 March 2017, communication No. 2668/2015, and HRC, *Tina Sanila-Aikio v. Finland*, decision on merits adopted on 1 November 2018, communication No. 2950/2017.

123 HRC, *Klemetti Käkkäläjärvi et al. v. Finland*, decision adopted on 2 November 2018, communication No. 2950/2017.

124 *Tina Sanila-Aikio v. Finland*, decision on admissibility, para. 2.2.

of belonging to the Sami community.[125] According to the applicants, the state intervention had led to a change in the national proportions of the members of the Sami Parliament and weakened the voice of the indigenous people in its representative body. As a consequence, the effectiveness of the Sami Parliament as a body representing indigenous peoples vis-à-vis the state authorities in making decisions concerning their culture, territories and economic interests has been significantly reduced. In both cases, the applicants therefore alleged that the state had violated Article 1 (right to self-determination), Article 25 (right to political participation), Article 26 (right to equal legal protection) and Article 27 of the ICCPR (rights of minorities).

The HRC pointed out that the guarantees under Article 27 of the ICCPR, interpreted in the light of Article 1 of the ICCPR and the provisions of the UN Declaration on the Rights of Indigenous Peoples,[126] include not only the inalienable right of indigenous peoples to freely pursue economic, social and cultural development, but also to freely determine their political status.[127]

The HRC considered that the proper functioning of the Sami Parliament and its ability to effectively represent the views of indigenous peoples were essential for the proper implementation of Articles 25 and 27 of the ICCPR by the state.[128] Their own Parliament enables Sami to exercise the rights protected under Articles 25 and 27 of the ICCPR, individually and collectively. In addition, the state uses it to ensure that members of the indigenous population participate effectively in decisions that affect them and that affect their right to enjoy their own culture or to use their own language in community with others. The HRC reminded that any restrictions affecting the exercise of political rights guaranteed by Article 25 of the ICCPR by indigenous peoples should be rational and objectively justified and consistent with other provisions of the ICCPR, including the right of peoples to internal self-determination.[129]

The HRC agreed with the allegations that the jurisprudence of the Finnish Supreme Administrative Court undermined the ability of the Sami people to exercise their right to self-determination in its key aspect, namely the ability to decide who ethnic Sami

125 Ahead of the 2015 Sami parliamentary elections, several hundred new applications were submitted to be added to the electoral roll, the vast majority of which were not approved by the Electoral Commission and the Sámi Parliament's Executive Board.182 appeals were filed against the decisions of the first-instance authorities to the Supreme Administrative Court, which granted 93 appeals, *Käkkäläjärvi and others v. Finland,* paragraph 2.9. The mass influx of new applications for entry on the electoral roll was related, inter alia, to the activity of organisations unfavourable to Sami communities, which persuaded non-indigenous Finns to apply for entry in the register of voters to the Sami Parliament, ibid., para. 8.9.

126 UN Declaration on the Rights of Indigenous Peoples, UN General Assembly resolution of 13 September 2007, A/RES/61/295.

127 *Tina Sanila-Aikio v. Finland*, decision merits, paragraph 6.8; *Käkkäläjärvi and Others v. Finland*, para. 9.8.

128 *Tina Sanila-Aikio v. Finland*, views on merits, para. 6.10; *Käkkäläjärvi and Others v. Finland,* para. 9.10.

129 Ibid.

is.[130] According to the HRC, the Finnish court's rulings constituted an interference with the right of the applicants and the entire Sami community to participate in the procedure of electing representatives to an institution enabling them to exercise their right to their own language and culture, and thus effectively exercise their right to internal self-determination. The HRC took the view that the state had violated Article 25 of the ICCPR, read separately and in conjunction with Article 27 of the ICCPR, and in the light of Article 1 of the ICCPR.[131] The HRC recommended Finland to amend the provisions of the Law on the Sami Parliament so that the criteria for the right to stand as a candidate in elections to the Sami Parliament are defined and applied in a manner that respects the right of the population to internal self-determination, in accordance with the provisions of Articles 25 and 27 of the ICCPR.[132]

As far as the Central and Eastern Europe is concerned, the quasi-jurisprudential activity of the HRC related to communications on alleged violations of minority rights under Article 27 of the ICCPR has not been substantial. In the Central-European context, the HRC has dealt with a few cases concerning the use of minority language in the public sphere, and the official recognition (spelling) of the name in minority language. In *Raihman v. Latvia*,[133] the name and surname of the applicant, who belonged to the Russian and Jewish minorities in Latvia, had been changed from 'Leonid Raihman' to 'Leonīds Raihmans' against his will. The original version of the name was registered by the state authorities in the Soviet Union, and in 1998 the Latvian authorities, by issuing a temporary passport to the applicant, made changes to adapt it to the form in accordance with the rules for the creation of male surnames in the Latvian language. This form was incompatible with the Russian and Jewish language rules. In 2001, the applicant was granted Latvian nationality and identity documents in which his name was written in accordance with Latvian rules, and subsequently applied unsuccessfully for a correction. The applicant alleged a violation of Article 17 (the right to respect for private and family life), Article 17 in conjunction with Article 2 (prohibition of discrimination in the exercise of the rights guaranteed by the ICCPR), Article 26 (general prohibition of discrimination) and Article 27 of the ICCPR (minority rights) before the HRC. According to the applicant, a unilateral modification of his name and surname after 40 years of using it in its original form caused inconveniences in everyday life and a sense of alienation due to the arbitrariness of the authorities.

The HRC noted that a surname is an essential element of identity and that protection against arbitrary and unlawful invasion of privacy includes the right to choose

130 *Tina Sanila-Aikio v. Finland*, decision on merits, para. 6.11; *Käkkäläjärvi and Others v. Finland,* para. 9.11.
131 Ibid. At the same time, the HRC refrained from considering the notifications in the remaining scope, i.e. in connection with the allegation of violation of art. 26 of the ICCPR.
132 *Tina Sanila-Aikio v. Finland*, decision on merits, para. 8; *Käkkäläjärvi and Others v. Finland,* para. 11.
133 HRC, *Raihman v. Latvia*, decision of 30 November 2010, communication No. 1621/2007.

and change one's name.[134] While examining whether the state's action met the criteria of unlawful interference under Article 17 of the ICCPR, the HRC noted that the change of the applicant's name was intended to align it with the Latvian grammatical rules. The change took place based on the provisions of the Latvian language legislation, so it could not be considered illegal. Analysing the premise of arbitrary interference, the HRC reminded that arbitrary interference may also characterise state actions taken based on legal provisions.[135] The concept of 'arbitrary interference' was introduced to ensure that legitimate state interference is compatible with the objectives set out in the ICCPR and justified in specific circumstances. The purpose of Latvia's interference with the applicant's right was to protect the Latvian language and its grammatical integrity. The HRC also took into account the historical context (the difficulties to which the Latvian language was exposed during the Soviet occupation) and concluded that the objective of the state interference was a legitimate one. At the same time, however, the HRC found that the interference with the applicant's right entailed significant inconveniences for him, which were not justified or proportionate to the purpose of the interference. The HRC confirmed that the issue of legislative policy and the determination of measures aimed at protecting and promoting official languages is left to the discretion of the state. However, according to the HRC, 'the forceful addition of a declinable ending to a surname, which has been used in its original form for decades, and which modifies its phonic pronunciation, is an intrusive measure, which is not proportionate to the aim of protecting the official state language'.[136] Referring to its previous case law, the HRC held that the right to choose and change one's name and surname, protected under Article 17 of the ICCPR, also means protection against forced change of name and surname by the state. The HRC concluded that the arbitrary change of the applicant's name and surname in official documents had not been justified and constituted an interference with his privacy, which amounted to a violation of Article 17 of the ICCPR. Recognising the violation of the right to respect for private and family life, the HRC did not consider the case in terms of violation of Article 26, Article 27 or Article 2 paragraph 1 in conjunction with Article 17 of the ICCPR. Therefore, the language rights of the applicant, who belonged to a national minority, were protected based on legal guarantees available to every person, not minority-specific rights (Article 27 of the ICCPR). The issue of the spelling of the name and surname was also the subject of a complaint in *Valery Moyseenko v. Ukraine*,[137] brought before the HRC by a person belonging to the Russian community, living in the eastern part of Ukraine. In the applicant's birth certificate issued by the Soviet Union, his given name, patronymic and surname were written according to the rules of Russian spelling. In the applicant's identity card, already issued by the Ukrainian authorities, the given name, patronymic and surname were written

134 Ibid., para. 8.2.
135 Ibid., para. 8.3.
136 Ibid., para. 8.3.
137 HRC, *Valery Moyseenko v. Ukraine*, decision of 8 November 2019, communication No. 2717/2016.

in two language versions – Russian and Ukrainian. In 2009, the applicant received a passport in which his name was written only in Ukrainian. Also, the transliteration of the Russian's name and surname into the Latin alphabet was made on the basis of Ukrainian, not Russian spelling. According to the applicant, the right to a name and surname guaranteed by the Civil Code of Ukraine requires that national traditions be taken into account when spelling and transliterating names and surnames. The applicant applied for the correction of the transliteration in the passport on several occasions, both before public administration authorities and in courts. His requests were not taken into account by the Ukrainian authorities, who referred to the fact that Russian is not the official language of Ukraine and, according to the applicable regulations, cannot be used as a basis for transliteration of the names and surnames of Ukrainian citizens into the Latin alphabet. The applicant alleged before the HRC that Ukraine had violated Article 17 (the right to respect for private and family life) and Article 27 of the ICCPR (minority rights).

The HRC rejected the complaint on the grounds that it did not meet the admissibility criteria specified in Article 2 of the OP1-ICCPR. The applicant failed to demonstrate sufficiently that the state had committed arbitrary and unlawful interference with his rights guaranteed by Articles 17 and 27 of the ICCPR, nor did he explain how he was adversely affected by the transliteration of his name and surname into the Latin alphabet on the basis of Ukrainian spelling.

The analysis of the HRC case law related to Article 27 of the ICCPR demonstrates that over the years, the HRC's approach to protecting cultural rights has evolved toward more far-reaching protection of groups with different cultural identities. In the case-law of the HRC, the protection of certain rights of national minorities, primarily linguistic rights, sometimes comes to effect through fundamental human rights available to every person, such as the prohibition of discrimination, the right to freedom of expression or respect for private and family life, rather than through provisions directly protecting linguistic rights (that is Article 27 of the ICCPR).[138] These guarantees are not directly intended to protect cultural rights, and yet the case law of the HRC demonstrates that they can serve the protection of the linguistic and cultural identity of minorities better than Article 27 of the ICCPR, which also showcases the interdependence of all human rights.

5. Case Study of South Tyrol as an Example of Addressing Minority Issues Within the UN Forum

The case of South Tyrol serves as a good practice example of resolving a minority-related bilateral conflict within the UN forum. From 14th century until the end of the First World War, South Tyrol was part of the Habsburg Monarchy. At the turn

138 See also HRC, *J.G.A. Diergaardt and others v. Namibia*, decision of 6 September 2000, communication No. 70/1997.

of the 19th and 20th centuries, this region was inhabited by only 4% of the Italian population, and the remaining part was inhabited by German-speaking and Romansh (Ladin) population.[139] Nonetheless, after the First World War, the border between Austria and Italy was set along the Brenner Pass, and the area south of this border was incorporated into Italy, leaving a substantial number of German-speaking population on the territory of Italy.[140] In the period that followed the annexation of South Tyrol to Italy, the German-speaking minority was affected by intensive assimilation policy from the part of the Italian state.[141]

After the Second World War, South Tyrol still remained within the borders of Italy. Austria and Italy began direct negotiations on the regulation of the legal status of minorities in the Alto Adige-Trentino region, which resulted in the signing on 5 September 1946 of a bilateral agreement. The signing of the act was attended by the Italian Prime Minister Alcide Degasperi and the Austrian Foreign Minister Karl Gruber, therefore, the bilateral treaty was referred to as the Gruber-Degasperi Treaty. It became part of the Paris Peace Treaty signed with Italy in 1947.[142] The treaty provided for the autonomous status of South Tyrol, including *inter alia* equal rights for the German-speaking minority and the Italian population, equal status for the Italian and German languages, and also established parities in employment in the public service. The provisions of the Gruber-Degasperi Treaty, which is the international legal basis for the autonomy of South Tyrol, were incorporated into the provisions of the Italian Constitution of 1947 granting the Trentino-Alto Adige region a specific form of autonomy.[143] On 26 February 1948, the so-called first autonomous statute was adopted the purpose of implementing international obligations.[144]

The Constitution of Italy of 1948 granted autonomous legislative and executive powers to the entire Alto Adige-Trentino region, but not to the province of Bolzano (Bozen) itself, where the German-speaking population was the dominant group. In such a designated autonomous region, Italians constituted over 70% of the population,

139 Lantschner, 2008, p. 5.

140 In his peace programme for the post-war Europe, the U.S. President Wilson suggested that a readjustment of the frontiers of Italy along clearly recognisable lines of nationality should be made.

141 Actions aimed at depriving the German population of its cultural identity involved among others: intensive Italianisation and displacement of the German language from the public sphere, including education, and mass resettlement of the Italian population to the German-speaking province of Bolzano in order to change the national structure. These actions were drastic and covered all spheres of private and public life, the names and surnames of members of the German minority were Italianised even on the already existing tombstones. The name of the entire region – South Tyrol (German: *Südtirol*) – was replaced by the Italian name Alto Adige, and any reference to the name Tyrol was banned. Győri Szabó, 2006, p. 222. For more information, see Lantschner, 2008, pp. 6–9.

142 Treaty of Peace with Italy, adopted in Paris on 10 February 1947. Agreement between the Governments of Austria and Italy, signed in Paris on 5 September 1946 (Gruber–Degasperi Agreement).

143 Art. 116 of the Constitution of the Italian Republic of 27 December 1947.

144 Lantschner, 2008, p. 10.

which left the German population in the minority and was an attempt to weaken its influence.[145] Representatives of minorities supported by Austria negated the Autonomous Statute of 1948, considering it incompatible with the international obligations assumed by Italy in the Gruber-Degasperi Treaty.[146]

In 1960, the Foreign Minister of Austria Bruno Kreisky presented the issue of the German-speaking minority in South Tyrol to the UN General Assembly.[147] The Austrian government filed a complaint against Italy, on the account of discriminatory policy towards the German minority and non-compliance with the international obligations. The issue of the German-speaking population in South Tyrol was on the agenda of the UN General Assembly twice. Two resolutions adopted in 1960 and 1961 by the UN General Assembly reaffirmed Austria's right to intervene in the matter of civil protection in South Tyrol by virtue of its status as a party to the Treaty on the Protection of Minorities in the region (the so-called Gruber-Degasperi Treaty).[148] The resolutions urged the States Parties to resume negotiations in order to reach a common position on the implementation of the Treaty. In the event that a compromise is not reached within a reasonable time, it was recommended to have recourse to other peaceful means of resolving international disputes as set out in the UN Charter, including bringing the case to the International Court of Justice (ICJ). The possibility of bringing a case related to the protection of national minority before the ICJ had its legal basis in an international (bilateral) treaty.

Austria and Italy entered into negotiations which involved the participation of a mixed commission, the so-called Commission of Nineteen. They led to the adoption in 1969 of a bilateral international agreement, the so-called 'Package Agreement', which included a comprehensive proposal for reforms in relation to the first Autonomous Statute.[149] The most important change in relation to the previous legal status was extending the autonomous status to the province of Bolzano, and the establishment of a separate autonomy for the neighbouring province of Trentino. The Constitutional Law of 10 November 1971 (Second Autonomous Statute) conferred the autonomous legislative and executive powers on each province separately.[150] The Package

145 Ibid.
146 Medda-Windischer, 2008, p. 18.
147 Győri Szabó, 2006, p. 226.
148 N General Assembly Resolution 1497 (XV) on the Status of the German-speaking element in the province of Bolzano, implementation of the Paris Agreement of 5 September 1946, 31 October 1960; UN General Assembly Resolution 1661 (XVI) on the Status of the German-speaking element in the province of Bolzano/Bozen, November 28, 1961. Text of the resolution available on the UN website.
149 The Package Agreement was signed on 29 November 1969 by the Austrian Foreign Ministers, Kurt Waldheim, and the Italian Foreign Ministers, Aldo Moro, after its earlier adoption by the Trentino-Alto Adige Regional Assembly. See also Alcock, 1982.
150 On 31 August 1972, the President of the Italian Republic issued Decree No. 670 on the autonomy of the Trentino-Alto Adige Region. The current art. 116 of the Italian Constitution states that the Trentino-Alto Adige/Südtirol Region consists of the autonomous provinces of Trento and Bolzano.

Agreement also included a timetable for the various actions to implement autonomy.[151] In the 1970s, the provinces were given administrative powers in the field of education, and in parallel, rules for determining employment parities in public administration were put in place. At the end of the 1980s, the use of German and Romansh in contacts with public administration and in court proceedings was legally regulated.[152] The full implementation of the second autonomous statute took twenty years. In June 1992, the Austrian and Italian governments officially declared the end of the dispute, and the fulfilment of their obligations regarding South Tyrol under bilateral international agreements and GA 1497 (XV).[153]

The participation of the UN in the protection of national minorities in South Tyrol was important for resolving the dispute. Some authors point to the minimalist nature of the General Assembly resolutions, the content of which was limited to calling on the parties to continue negotiations.[154] No specific actions were imposed on the parties to the conflict, which allowed the countries concerned to develop appropriate solutions. At the same time, however, the issue was brought under observation of the international community, which urged the parties of the dispute to work out a peaceful solution, using the means set out in the UN Charter. The international nature of the case was also confirmed and the legitimacy of Austria as the kin-state was recognised, allowing it to act as protector of the German-speaking minority in South Tyrol.

Austria presented the issue of the protection of the rights of national minorities in South Tyrol before the General Assembly without making territorial claims. While demanding the protection of the German-speaking population, Austria referred to international standards for the protection of minority rights, and requested the GA to deal with the issue based on Articles 10 and 14 of the UN Charter.[155] Such an approach to the issue of the protection of national minorities was recognised at the UN forum as an acceptable form of interference by a kin-state in the issue of the protection of minority rights on the territory of another state. It was recognised that national minorities do not have the right to *external self-determination*, i.e. to act for the sake of gaining independence or joining the kin-state. However, the minority's right to *internal self-determination*, which consists of efforts aimed at obtaining autonomous status within the host state was reaffirmed.[156]

151 Győri Szabó, 2006, p. 226.
152 Lantschner, 2008, p. 14.
153 Documents of 17 June 1992; UN Doc. A/46/939 and UN Doc. A/46/940.
154 Medda-Windischer, 2008, p. 22.
155 Ibid., p. 21.
156 Ibid., p. 25; see also Kymlicka, 2008, pp. 46–47; Crawford, 2006, pp. 388–391; UN Committee on the Elimination of Racial Discrimination, 1996, para. 9.

6. Summary

The vulnerable situation of persons belonging to national minorities stems from their distinct cultural identity and the linguistic, ethnic or religious characteristics that make members of a national minority different from the majority of the population. Different national and cultural backgrounds can give incentives for discriminatory attitudes from the state authorities and majority population. The discriminatory practices not only hinder the full exercise of human rights and freedoms by persons belonging to minorities, but they can also impede the preservation of their distinct cultural identity and lead to what is usually described as assimilation or cultural erosion.

The legal guarantees that serve to protect the cultural identity of persons belonging to national minorities and aim to prevent their discrimination are referred to as *minority rights*. They encompass, among others, the right to use the minority language, the right to learn a minority language and receive education in that language, the right of individuals belonging to national minority to establish their own educational institutions, to practice their own religion, to enjoy their own culture and participate in the cultural life of their community. In the international human rights law, the guarantees which protect free access and enjoyment of culture, not only with respect to the protection of national minorities, are referred to as *cultural human rights*, and belong to the second generation of human rights.

Although there is no universally agreed definition of national minorities in international law, there is a wide consensus that the term national minorities denotes a group numerically smaller than the rest of the population of a state, in a non-dominant position, and whose members possess ethnic, religious or linguistic characteristics differing from the rest of the population and show a sense of solidarity directed towards preserving their culture, traditions, religion or language (Capotorti). The term *national minority* is more commonly used in the European instruments on minority rights than in UN documents, which typically refer to ethnic, linguistic and religious minorities.

The origins of the legal framework for the protection of national minorities can be traced back to the interwar period and the League of Nations system for national minority protection. It consisted of various kinds of international treaties and documents (the peace treaties signed after the First World War with the defeated states, separate minority treaties signed with newly formed countries, as well as bilateral agreements regulating the situation of specific national minorities, and declarations on respect for national minorities made by countries later joining the League of Nations). The League of Nation's regime provided for legal protection for specific ethnic or national groups, such as the Jewish minority, the Szeklers or the Saxon minority. The League of Nation's treaty system laid the ground for a comprehensive framework for minority protection, which equipped the Permanent Court of

International Justice with the jurisdiction over minority disputes; nevertheless, the system lacked effectiveness primarily due to asymmetry in international relations.

After 1945, with the creation of the United Nations and the development of the universal human rights system, the protection of collective rights of national minorities, central to the League of Nation's system of minority protection, was replaced by the focus on guaranteeing individual rights of persons belonging to national minorities. The protection of minorities was to be ensured through the principle of equality and non-discrimination, whose purpose was to ensure that all persons, irrespective of their nationality, race, colour, language, religion, national or social origin, can fully and effectively exercise their human rights. The developments in international human rights law in the second half of the 20th century at the universal level have not led to the adoption of an international treaty dedicated solely to minority rights.

The present UN framework for the protection of national minorities is based on general, as well as minority-specific provisions. The general legal norms relevant for the protection of national minorities primarily include the prohibition of discrimination (UDHR, ICCPR, ICESCR), as well as the right to the protection of cultural identity anchored in the right of everyone to participate in cultural life (ICESCR). Minority-specific rights are included in several binding instruments (Article 27 of the ICCPR, Article 30 of the CRC, Article 5 paragraph 1(c) of the UNESCO Convention against Discrimination in Education), as well as in soft-law documents (the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities).

The implementation of states' obligations concerning the protection of human rights, including minority rights, is monitored by the competent treaty bodies. The monitoring takes place through periodic reporting, as well as within the individual communication procedure, albeit the latter is only possible with respect to states that have ratified the relevant optional protocol providing for the possibility to file an individual complaint to the given treaty body. The Human Rights Committee has developed significant case-law related to protecting cultural rights of national minorities guaranteed in Article 27 ICCPR, albeit primarily with respect to natural resources and traditional ways of life of indigenous peoples, which also enjoy protection under minority rights. The Human Rights Committee has not typically focused on cases related to the protection of national minority rights in Central and Eastern Europe. Other treaty bodies (CESCR, CRC) have less influence on the universal human rights system and minority protection.

The substantial contribution of the UN human rights system to minority protection is evident in the adoption of several binding, although fragmented standards related to the rights of national minorities. These standards have provided impetus for further initiatives in minority protection at both the universal and regional levels, including the European system of human rights. The last two decades have not seen any substantial progress in developing the legal framework for minority protection within the universal human rights system. With the intensive development of the European framework for minority protection in 1990s, and the inclusion

of the respect for national minorities into the EU membership criteria (Copenhagen criteria), the concept of protecting national minorities – deeply embedded in the European history – achieved a higher level of recognition and became more effective at the European level compared to the UN human rights system. Nonetheless, it was the UN that spearheaded the international protection of the right of every nation to express and preserve its 'fundamental spiritual sovereignty' through the right to its own culture.[157]

157 'A presupposition of a nation's rights is certainly its right to exist: therefore no one — neither a state nor another nation, nor an international organisation — is ever justified in asserting that an individual nation is not worthy of existence. […] Its right to exist naturally implies that every nation also enjoys the right to its own language and culture, through which a people expresses and promotes that which I would call its fundamental spiritual 'sovereignty'.' John Paul II, 1995.

Bibliography

Alcock, A.E. (1982) 'The South Tyrol Package Agreement of 1969 and Its Effect on Ethnic Relations in the Province of Bolzano', *Irish Studies in International Affairs*, 1(3), pp. 47–54.

Bándi, Gy. (2020) 'A fenntartható fejlődés és az őshonos nemzeti kisebbségek' in Dabis, A. (ed.) *Magyarok jogvédelme a Kárpát-medencében*. Budapest: Kisebbségi Jogvédő Intézet, pp. 11–44.

Benyusz, M. (2024) 'Optional Protocol on a Communications Procedure' in Benyusz, M., Raisz, A. (eds.) *International Children's Rights*. Miskolc–Budapest: Central European Academic Publishing. pp. 241–257; https://doi:10.71009/2024.mbar.icr_10.

Capotorti, F. (1976) 'The protection of Minorities under Multilateral Agreements on Human Rights', *Italian Yearbook of International Law*, 2(1), pp. 3–32.

Capotorti, F. (1979) *Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities. UN Doc. E/CN.4/Sub.2/384/Rev.1.* New York: United Nations.

Crawford, J. (2006) *The Creation of States in International Law*. Oxford: Oxford University Press.

de Varennes, F. (1997) *To speak or not to speak: the rights of persons belonging to linguistic minorities. Working paper. E/CN.4/Sub.2/AC.5/1997/WP.6* [Online]. Available at: https://digitallibrary.un.org/record/239464 (Accessed: 28 February 2025).

Donders, Y. (2008) *Cultural Life in the Context of Human Rights. E/C.12/40/13*. 9 May 2008. [Online]. Available at: https://digitallibrary.un.org/record/627390/files/E_C.12_40_13-EN.pdf (Accessed: 28 February 2025).

Eide, A. (2006) 'The Framework Convention in Historical and Global Perspective' in Weller, M. (ed.) *The Rights of Minorities: A Commentary on the European Framework Convention for the Protection of National Minorities*. Oxford: Oxford Academic, pp. 25–48.

Espejo-Yaksic, N. (2019) 'International Laws on the Rights of Indigenous Children' in Kilkelly, U., Liefaard, T. (eds.) *International Human Rights of Children*. Singapore: Nature Singapore, pp. 587–616; https://doi.org/10.1007/978-981-10-4184-6_21.

Galántai, J. (1993) *Trianon and the Protection of Minorities*. Budapest: Corvina.

Groni, C. (2008) *The right to take part in cultural life. E/C.12/40/3*. 9 May 2008. [Online]. Available at: https://digitallibrary.un.org/record/627364/files/E_C.12_40_3-EN.pdf?ln=en (Accessed: 28 February 2025).

Győri Szabó, R. (2006) *Kisebbség, autonómia, regionalizmus*. Budapest: Osiris Kiadó.

Hannum, H. (2007) 'The Concept and Definition of Minorities' in Weller, M. (ed.) *Universal Minority Rights. A Commentary on the Jurisprudence of International Courts and Treaty Bodies*. Oxford: Oxford University Press, pp. 49–74.

Hanson, J., Weller, M. (2018) *The UN Declaration on the Rights of Indigenous Peoples. A Commentary*. Oxford: Oxford University Press.

Heinze, H.J. (2006) 'Article 1' in Weller, M. (ed.) *The Rights of Minorities: A Commentary on the European Framework Convention for the Protection of National Minorities*. Oxford: Oxford Academic, pp. 77–96.

Hodgkin, R., Newell, P. (2007) *Implementation Handbook for the Convention for the Convention on the Rights of the Child*. 3rd edn. Geneva: UNICEF Regional Office for Europe.

Holt, S. (2007) 'Family, Private Life, and Cultural Rights' in Weller, M. (ed.) *Universal Minority Rights. A Commentary on the Jurisprudence of International Courts and Treaty Bodies*. Oxford: Oxford University Press, pp. 203–252.

Jackson-Preece, J. (2006) 'Article 18' in Weller, M. (ed.) *The Rights of Minorities in Europe. A Commentary on the European Framework Convention for the Protection of National Minorities*. Oxford: Oxford University Press, pp. 507–518.

John Paul II (1989) *Message of His Holiness Pope John Paul II for the Celebration of the World Day of Peace, 1 January 1989* [Online]. Available at: https://www.vatican.va/content/john-paul-ii/en/messages/peace/documents/hf_jp-ii_mes_19881208_xxii-world-day-for-peace.html (Accessed: 28 February 2025).

John Paul II (1995) *Address of His Holiness Pope John Paul II to the 50th General Assembly of the UN*. New York, 5 October 1995 [Online]. Available at: https://www.vatican.va/content/john-paul-ii/en/speeches/1995/october/documents/hf_jp-ii_spe_05101995_address-to-uno.html (Accessed: 28 February 2025).

Kardos G. (2002) 'A kultúrához való jog védelme a nemzetközi jogban', *Fundamentum*, 2002/2, pp. 29–38.

Kovács, P. (2000) *International Law and Minority Protection. Rights of Minorities or Law of Minorities?*, Budapest: Akadémiai Kiadó.

Kymlicka, W. (2008) 'The Evolving Basis of European Norms of Minority Rights: Rights to Culture, Participation and Autonomy' in Weller, M., Blacklock, D., Nobbs, K. (eds.) *The Protection of Minorities in the Wider Europe*. London: Palgrave Macmillan, pp. 11–41; https://doi.org/10.1057/9780230582293_2.

Lantschner, E. (2008) 'History of the South Tyrol Conflict and Its Settlement' in Marko, J., Palermo, F., Woelk, J. (eds.) *Tolerance through Law: Self-Governance and Group Rights in South Tyrol*. Leiden–Boston: Martinus Nijhoff Publishers, pp. 3–15.

Lerner, N. (2003) *Group Rights and Discrimination in International Law*. Dordrecht–Boston: M. Nijhoff.

Marinkás, Gy. (2016) 'Cultural Rights as a Tool of Protecting the Rights of Indigenous Peoples' in Szabó, M., Varga, R., Láncos, P.L. (eds.) *Hungarian Yearbook of International Law and European Law 2015*. The Hague: Eleven International Publishing, pp. 15–38.

Marinkás, Gy. (2018) *Az őslakos népek védelmének aktuális jogi kihívásai*. Miskolc: Miskolci Egyetem Állam- és Jogtudományi Kar.

Medda-Windischer, R. (2008) 'Minorities under International Law and in South Tyrol' in Marko, J., Palermo, F., Woelk (eds.) *Tolerance through Law: Self-Governance and Group Rights in South Tyrol*. Leiden-Boston: Martinus Nijhoff Publishers.

Muszyński, M. (2022) *Siła norma idea. Prawo międzynarodowe w ujęciu historycznym T.3*. Warszawa: Wydawnictwo Naukowe UKSW.

PCIJ (1930) *The Greco-Bulgrian "Communities" / Question des "Communautés" Gréco-Bulgares. Advisory opinion of 31 July 1930*. Leiden: Publications de la Cour Permanente de Justice Internationale.

Pentassuglia, G. (2000) *Defining 'Minority' in International Law: A Critical Appraisal*. Rovaniemi: Lapland's University Press.

Raisz, A. (2008) 'Indigenous Communities before the Inter-American Court of Human Rights – New Century, New Era?', *Miskolc Journal of International Law,* 5(2), pp. 35–51.

Reidel, L. (2011) 'What are Cultural Rights? Protecting Groups with Individual Rights' in Ssenyonjo, M. (ed.) *Economic, Social and Cultural Rights*. New York: Routledge.

Rosas, A., Scheinin, M. (1999) 'Categories and beneficiaries of human rights' in Hanski, R., Suksi, M. (eds.) *An Introduction to the International Protection of Human Rights: A Textbook*. Turku–Åbo: Åbo Akademi University Institute for Human Rights.

Sándor-Szalay, E. (2022) 'International Law in the Service of Minority Protection – Hard Law, Soft Law, and a Little Practice' in Raisz, A. (ed.) International Law From a Central European Perspective. Miskolc–Budapest: Central European Academic Publishing. pp. 157–179; https://doi.org/10.54171/2022.ar.ilfcec_8.

Szalai, A. (2018) 'Nemzeti kisebbségek védelme' in Lamm, V. (ed.) *Emberi Jogi Enciklopédia.* Budapest: HVG–ORAC, pp. 523–529.

Thornberry, P. (1991) *International Law and the Rights of Minorities*. Oxford: Clarendon Press.

Peace Treaty concluded between the Allied and Associated Powers and Czechoslovakia concluded in Saint Germain-en-Laye on 10 September 1919 (1920) *American Journal of International Law,* 14(4), pp. 311–323.

Peace Treaty concluded between the Allied and Associated Powers and the Kingdom of Serbs, Croats and Slovenes concluded in Saint Germain-en-Laye on 10 September 1919 (1920) *American Journal of International Law,* 14(4), pp. 333–343.

Treaty between the Principal Allied and Associated Powers and Austria, signed at Saint-Germain-en-Laye, September 10, 1919 (1920) *American Journal of International Law* 14(1–2), pp. 1–183.

Treaty between the Principal Allied and Associated Powers and Bulgaria and its Protocol, signed at Neuilly-sur-Seine on 27 November 1919 (1920) *American Journal of International Law,* 14(3), pp. 185–188.

Treaty between the Principal Allied and Associated Powers and Romania, concluded in Paris on 9 December 1919 (1920) *American Journal of International Law,* 14(4), pp. 324–332.

Treaty concluded between the Allied and Associated Powers and Greece in Sévres on August 10, 1920 (1921) *American Journal of International Law,* 15(2), pp. 161–169.

Treaty of Peace between the Allied and Associated Powers and Hungary concluded in Trianon on 4 June 1920 (1920) *American Journal of International Law,* 15(1), pp. 23–151.

Treaty of Peace with Turkey signed at Lausanne on 24 July 1923 (1924) in *The Treaties of Peace 1919–1923. Vol. II*. New York.

UN Committee on Economic, Social and Cultural Rights (2009) *General comment no. 21, Right of everyone to take part in cultural life (art. 15, para. 1a of the Covenant on Economic, Social and Cultural Rights). E/C.12/GC/21*.

UN Committee on Economic, Social and Cultural Rights (2022) *General Comment No. 26 on land and economic, social and cultural rights. E/C.12/GC/26*.

UN Committee on the Elimination of Racial Discrimination (1996) *General Recommendation No. 21 on the right to self-determination. UN Doc A/51/18.*

UN Committee on the Rights of the Child (1996) *General Guidelines Regarding the Form and Contents of Periodic Reports. CRC/C/58.* 11 October 1996.

UN Committee on the Rights of the Child (2009*) General Comment No. 11. Indigenous children and their rights under the Convention*. *CRC/C/GC/11.*

UN Committee on the Rights of the Child (2013a) *General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1)*. *CRC/C/GC/14.*

UN Committee on the Rights of the Child (2013b) *General comment No. 17 on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts*. *CRC/C/GC/17.*

UN Economic and Social Council (1950) *Study of the Legal Validity of the Undertakings Considering Minorities. E/OT. V367.* 7 April 1950. [Online]. Available at: https://digitallibrary.un.org/record/573952?v=%5B%27%5B%22%5B%5C%27pdf%5C%27%5D%22%5D%27%5D&ln=es (Accessed: 28 February 2025).

UN Human Rights Committee (1994) *General Comment No. 23: Article 27 (Rights of Minorities). CCPR/C/21/Rev.1/Add.5*. 26 April 1994.

UN Working Group on Minorities (2005) *Commentary to the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. E/CN.4/Sub.2/AC.5/2005/2*.

Vasak, K. (1977) 'A 30-year struggle. The sustained efforts to give force of law to the Universal Declaration of Human Rights', *The UNESCO Courier,* 30(11), pp. 29–32.

Weller, M. (2007) *Universal Minority Rights. A Commentary on the Jurisprudence of International Courts and Treaty Bodies*. Oxford: Oxford University Press.

Wilson, W. (1918) *Address to a Joint Session of Congress on the Conditions of Peace ["The Fourteen Points"]* [Online]. Available at: https://catalog.archives.gov/id/5752371?objectPage=6 (Accessed: 28 February 2025).

Zombory, K. (2023a) 'The Right to Cultural Identity in the Case Law of the Inter-American Court of Human Rights: A New Global Standard for the Protection of Indigenous Rights and Future Generations?', *Journal of Agricultural and Environmental Law,* 18(34), pp. 171–191; https://doi.org/10.21029/JAEL.2023.34.171.

Zombory, K. (2023b) *Prawnomiędzynarodowa ochrona praw kulturalnych mniejszości narodowych: wybrane zagadnienia*. Warszawa: Instytut Wymiaru Sprawiedliwości.

Zombory, K. (2025) ‘Religious rights of children belonging to national minorities and indigenous peoples’ in Zombory, K., Benyusz, M. (eds.) *Religion and children’s rights*. Budapest–Miskolc: Central European Academic Publishing, pp. 153–176; https://doi.org/10.71009/2025.kzmb.racr_7.