



Заштитник грађана  
Zaštitnik građana

**REPUBLIC OF SERBIA  
PROTECTOR OF CITIZENS**

16-2987/11  
Belgrade

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Pursuant to Article 1 paragraph 2 of the Law on the Protector of Citizens (*Official Gazette of RS*, Nos 79/05 and 54/07), seeking to ensure the protection and promotion of human and minority rights and freedoms, on the basis of publicly known facts and data and those collected through research on official languages and scripts of national minorities in Serbia, in accordance with Article 24 paragraph 2 of the Law, the Protector of Citizens issues the following opinion and recommendation:

**OPINION**

**The existing shortcomings of the Law on Official Use of Languages and Scripts (*Official Gazette of RS*, No. 30/2010, hereinafter referred to as: the Law) prevent the national minorities from exercising their rights to equal official use of their languages and scripts.**

**The Law does not stipulate that it is mandatory for the local self-government units to introduce in equal official use the language and script of a national minority when the legally prescribed requirement is met, that is - when more than 15% of the population of the same minority lives in its territory.**

**The discrepancy between Article 11 paragraph 4 and Article 19 of the Law, which consists in the fact that they have the same subject matter - writing names of authorities, names of local self-government units, populated places, squares, streets and other toponyms in the areas where the languages of national minorities are also in official use, but they regulate differently the ways of fulfillment of this obligation, create confusion and hinder an efficient and full exercise of the right to equal official use of languages and scripts of national minorities.**

**The provisions of Article 21 and Article 22 of the Law neither provide an efficient supervision over the implementation of the Law, nor the financial resources needed for the implementation and protection of the right to official use of languages and scripts of national minorities.**

Bearing in mind the importance of languages and scripts in the preservation of identity of ethnic and linguistic minorities and seeking to promote the fulfillment of the right to official use of languages and scripts of national minorities, within the meaning of the provisions of Article 24 paragraph 2 of the Law on the Protector of Citizens, the Protector of Citizens hereby refers to the Ministry of Human and Minority Rights, Public Administration and Local Self-Government the following recommendation:

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## RECOMMENDATION

In order to achieve and improve the equal official use of languages and scripts of national minorities, the competent state authority should:

1. **Take measures to regulate by the Law, in a clear and unambiguous manner, the following:**
  - *Mandatory introduction in equal official use of languages and scripts of national minorities in the territory of the local self-government unit when the percentage of that minority in the total population in its territory reaches 15% according to the latest population census;*
  - *Mandatory writing of the names of authorities vested with public powers, names of local self-government units, populated places, squares, streets and other toponyms according to the tradition and orthography of the minority language in official use in the territory of local self-government unit;*
2. **Provide all necessary means, measures and *financial resources* for the implementation of the Law on Official Use of Languages and Scripts, and efficient supervision over its implementation.**
3. **For the purpose of exercising the legally established competences of the National Councils of National Minorities, pursuant to Article 10 of the Law on National Councils of National Minorities, it is necessary to enable them to participate in the preparation of the Law and other regulations governing the official use of languages and scripts of national minorities.**

The Ministry of Human and Minority Rights, Public Administration and Local Self-Government will inform the Protector of Citizens, in accordance with Article 31 paragraph 3 of the Law on the Protector of Citizens, on the necessary measures undertaken to implement the recommendations within 60 days at the latest.

## R A T I O N A L E

The Constitution of the Republic of Serbia (*Official Gazette of RS*, No. 98/2006) stipulates that the Serbian language and Cyrillic script shall be in official use in the Republic of Serbia, while the official use of other languages and scripts shall be regulated by a separate law based on the Constitution. In order to realise this constitutionally guaranteed right and enable equal official use of the languages and scripts of national minorities, the Law Amending the Law on Official Use of Languages and Scripts was adopted.

The Law on Official Use of Languages and Scripts is the basic law in the field of official use of languages and scripts. Article 1 of the Law stipulates that the Serbian language and Cyrillic script shall be in official use in the Republic of Serbia, along with the Latin script in the manner prescribed by the Law, and that, in the areas inhabited by persons belonging to national minorities, the languages and scripts of national minorities shall be in official use, concurrently with the Serbian language, in the manner prescribed by the Law.

However, despite the fact that the official use of languages and scripts is regulated by the Law in the legal system of the Republic of Serbia, the Protector of Citizens has been addressed by the citizens who point to the difficulties concerning the exercise of this right.

## I

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In this regard, a characteristic example is found in the Municipality of Priboj where the equal official use of the Bosnian language and Latin script has not been provided for the members of Bosniak national minority in accordance with Article 11 paragraph 2 of the Law. The Municipal Statute envisages that in the territory of the Municipality of Priboj the Serbian language and Cyrillic script shall be in official use, and the introduction of Bosnian language and its script is possible only if the Municipal Assembly adopts the amendments to its Statute in accordance with Articles 20, 32 and 33 of the Law on Local Self-Government (*Official Gazette of RS*, No. 129/07). However, the councillors of the Municipal Assembly in several convocations have failed to accept the initiative for changing the Statute and have not adopted a decision on the basis of which it would be possible to introduce the Bosnian language in official use. Given that according to the 2002 Census, 18.33% Bosniaks lived in the territory of the Municipality of Priboj, the introduction of the Bosnian language is obligatory, according to Article 11 paragraph 2 of the Law, which stipulates that local self-government units **must introduce** in equal official use, **by their statutes**, languages and scripts of national minorities if the percentage of particular minority in the total population in its territory reaches 15% according to the latest population census. The obligation of the Municipality of Priboj to introduce the Bosnian language in official use is reinforced by the fact that by ratifying the European Charter for Regional or Minority Languages (*Official Journal of Serbia and Montenegro* - International Treaties No. 18/05), the Republic of Serbia undertook to ensure, in accordance with its laws, the proper implementation of the Charter for Albanian, **Bosnian**, Bulgarian, Hungarian, Roma, Romanian, Ruthenian, Slovak, Ukrainian and Croatian languages.

On 31 March 2010, the Protector of Citizens sent the Recommendation to the Municipal Assembly of Priboj expecting from the competent municipal authorities to take all necessary measures to rectify the mentioned error and allow the realisation of the constitutionally recognized right of national minorities. However, as it was not done, the Protector of Citizens informed about the errors in the work of the Municipal Assembly of Priboj the Ministry of Human and Minority Rights, Public Administration and Local Self-Government as the competent authority responsible for supervising the legality of work and acts of local self-government units. The Ministry notified the Municipal Assembly of Priboj about the need for initiating the procedure to amend the Statute of the Municipality of Priboj at their next meeting, thus allowing the introduction of the language and script of the Bosniak national minority in official use. Since the Ministry's instruction was not accepted and the Statute was not amended, in early March 2011 the Ministry submitted a proposal to the Constitutional Court for assessing the constitutionality and legality of the Statute of the Municipality of Priboj, but it has not been decided upon yet.

The procedure carried out by the Protector of Citizens and the measures taken by the Ministry of Human and Minority Rights, Public Administration and Local Self-Government suggest that the existing regulations do not envisage an efficient legal protection that would ensure the realisation and protection of the right of national minorities to official use of their languages and scripts.

## II

In 2009/2010, the Protector of Citizens conducted an investigation on the exercise of the right of national minorities to official use of language and observed the discrepancy between Article 11 paragraph 4 and Article 19 of the Law on Official Use of Languages and Scripts, because despite having the same subject matter - writing names of bodies vested with public powers, names of local self-government units, populated places, squares, streets and other toponyms in the areas where the languages of national minorities are also in official use, they regulate differently the ways of fulfillment of this obligation. Namely, Article 11 paragraph 4 of the Law provides that in the territory of local self-government units that introduced in equal official use the language and script of national minorities, the names of bodies vested with public powers, the names of local self-government units, populated places, squares, streets and other toponyms shall be written in

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minority languages, according to their tradition and orthography. At the same time, Article 19 of the Law provides that in the territories where the languages of national minorities are also in official use, the names of places and other geographical names, the names of streets and squares, the names of authorities and organisations, traffic signs, public notices and warnings and other public signs shall be written also in the languages of national minorities.

Apparently identical, the above legal provisions contain the essential difference because Article 11 paragraph 4 of the Law provides that the geographical names must be written in the language of national minorities in the form of **traditional names** used by members of national minorities (for example, the traditional name for Srbobran is Szenttamás). In contrast, such a possibility is not foreseen under Article 19 of the same Law, which stipulates that the writing of geographical names in minority languages can be done even without respecting their tradition and orthography. Article 19 of the Law allows the writing of geographical names in minority languages, but without writing them according to the tradition and orthography of concerned national minority.

The concurrent existence of Article 19 undermines the purpose of Article 11 paragraph 4 and prevents efficient and full realisation of the right to official use of languages and scripts of national minorities. The right to use traditional names in the minority language and orthography when writing the name of local self-government units or populated places, even when they differ from the Serbian name, has been determined both by that the provisions of Article 79 of the Constitution of the Republic of Serbia and the international documents: the Council of Europe Framework Convention for the Protection of National Minorities and bilateral agreements with other countries (for example, the Republic of Hungary).

### III

The Law on Ministries (*Official Gazette of RS*, No. 16/2011) stipulates that the official use of languages and scripts is in the purview of the Ministry of Human and Minority Rights, Public Administration and Local Self-Government (Article 11) and the Republic Legislation Secretariat (Article 24). At the same time, Article 22 of the Law on Official Use of Language and Script assigns a number of ministries responsible for administration, transport, urban planning and housing and public utilities, education, culture and health to supervise the implementation of the Law. According to the conducted procedure and notifications sent to the competent ministries about the supervision of the implementation of the Law, the Protector of Citizens has established that some ministries do not have the necessary capacity and do not supervise the implementation of the provisions of the Law on Official use of Languages and Scripts. Bearing this in mind, and the fact that the supervision of the implementation of the Law is not the responsibility of one ministry, and that there is no legally binding coordination of all competent public authorities concerning supervision, it becomes clear that the continuous supervision of its implementation has not been ensured.

**Therefore, the Protector of Citizens considers that the measures required for the consistent implementation of the Law are not provided and believes that the Law should determine one authority that will be responsible for the supervision of the implementation of the Law on Official Use of Languages and Scripts.** The establishing of one competent authority would ensure both the monitoring of situation and thorough insight into the issues related to the use of official languages and scripts, and the application of measures necessary to remedy deficiencies and penal provisions for failure to comply with the Law, and would create the conditions for planning the measures for improvement of official use of languages and scripts, particularly in planning and allocating the necessary budget.

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#### IV

Article 21 of the Law stipulates that the funds for implementing the official use of languages and scripts should be provided by the authorities or organisations in which the legally established rights and obligations are exercised. Bearing in mind that the legal provision does not specify the obligation of the authorities or organisations concerning the application of measures for the realisation of the right to official use of language and script, the Protector of Citizens points out that it is necessary to regulate the subject matter of the existing Article 21 of the Law in terms of determining the obligations of planning and allocating funds from the state budget to the authorities or organisations in which the official use of language and script is implemented.

It is important to note that Article 76 of the Law on Establishing the Competences of the Autonomous Province of Vojvodina, provides that the Autonomous Province, through its bodies, in compliance with the law regulating the use of languages and scripts, shall regulate more specifically the official use of languages and scripts of national minorities in the territory of the Autonomous Province and perform the inspection, as a delegated task, in accordance with the law regulating the official use of languages and scripts. These tasks fall within the scope of the Provincial Secretariat for Education, Administration and National Communities, which supervises the implementation of legal provisions, *monitors the situation and allocates the funds from the provincial budget*, through a public competition. In this way, the significant results have been achieved in consistent implementation of legal provisions on the official use of languages and scripts. The Provincial Secretariat for Education, Administration and National Communities each year submits a Report on conducted supervision of the implementation of regulations governing the official use of languages and scripts.

#### V

The Protector of Citizens indicates that in regulating the right to official use of national minority languages and scripts, especially in adopting the laws and regulations which regulate these issues in more detail, it is necessary to keep in mind the provision of Article 10 paragraph 1 item 10 of the Law on National Councils of National Minorities, which provides that in compliance with the law and its statute, and through its bodies, a national council shall independently participate in the preparation of regulations and submit motions for amendments to regulations prescribing the national minority rights guaranteed by the Constitution in the field of culture, education, information and official use of language and script.

Based on the previous allegations, the Protector of Citizens considers it necessary for the Ministry of Human and Minority Rights, Public Administration and Local Self-Government to establish cooperation with the Republic Legislation Secretariat and that in accordance with the competences set out by the Law on Ministries these authorities take measures and actions to remedy the identified deficiencies in the Law on Official Use of Languages and Scripts in order to achieve the effective exercise of the right of national minorities to official use of their languages and scripts.

DEPUTY PROTECTOR OF CITIZENS

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