Decoupled Empowerment: Minority Representation and the Implementation of Language Rights in Romania

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This article examines to what degree minority empowerment, understood as representation in political and administrative decision-making, leads to the implementation of minority protection policy. As a case study, it examines the implementation of minority language use in Romanian public administration. The Hungarian minority in Romania has been represented in both political and administrative decision-making at the central and local levels by the Democratic Alliance of Hungarians in Romania (DAHR). Although DAHR officials have held leading positions in the government, ministries, local councils, as well as agencies relevant to the implementation of policies regulating minority language use, the analysis reveals a patchy implementation picture. Relying on insights from agency theory and sociological institutionalism, this article argues that the implementation of language rights in Romania is best understood as a decoupled process between central political decision-making, mainly oriented towards gaining legitimacy through symbolic legislation, and local administrators with a high degree of discretion to apply their own implementation strategies. This, in turn, suggests that minority empowerment does not necessarily lead to the implementation of minority protection policy.

Keywords: minority empowerment; minority language policy; Romania; policy implementation; agency theory; sociological institutionalism

Minority language rights have been regulated in Romania since 2001, yet more than ten years later implementation in this area is still patchy. This situation is especially puzzling, since officials of the Hungarian minority party, expected to be intrinsically interested in minority language protection, have held leading positions in both political and administrative decision-making relevant to the implementation of

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language policy. This article addresses the relationship between minority empowerment and protection. We ask to what degree empowerment, understood as representation in political and administrative decision-making, is conducive to the implementation of minority protection measures. As an example, the article analyses the implementation of legislation ensuring the use of minority languages for bilingual signs and in communication with state authorities, which is guaranteed by Romanian legislation in administrative districts with more than 20% minority population.

Theoretically, the article builds on insights from implementation research and organization theory to explain the apparent gap between successful adoption of formal minority protection measures and patchy implementation of legislation despite *de facto* minority empowerment through the minority party. From an agency theoretical approach, relying on principal-agent relationships of task delegation, one explanation for inconsistent implementation is 'agency loss'. Because of information asymmetries, implementing agents can gain discretion to pursue their own goals despite attempts of their principals to control their action. Thus, agency loss can lead to non-implementation even when minorities are empowered in supervising political or administrative institutions, whereas committed agents may gain leeway to implement policies against the will of anti-minority oriented principals.

In turn, in the sociological institutionalist perspective, political processes at the central level appear to be largely 'decoupled' from local administration: national level politicians are mainly concerned with gaining legitimacy by presenting formal legislation as a success, and much less interested in the actual implementation of the policies they adopted. Local implementers, on the other hand, are often involved in practical, day-to-day problem-solving. For this reason, even committed implementers refrain from institutionalizing the implementation of minority language protection and instead often resort to informal ways of implementation in order to avoid potential negative repercussions. In the absence of commitment, situations involving minority language use are dealt with in an *ad hoc* manner. It follows from both approaches that minority empowerment does not necessarily lead to the institutionalized implementation of minority protection measures.

The article is structured as follows: first, the argument is situated within the literature on minority empowerment and implementation. Drawing on insights from agency theory and sociological institutionalism, the following section sets out the theoretical framework of principal-agent relationships and decoupling between central

policy-making and local implementation, and applies it to the implementation of minority protection legislation. The case study of minority language use legislation in Romania is then introduced, outlining the Romanian legal and institutional setting regarding minority protection. Finally, we discuss the implementation process and various strategies of actors at the central and local levels in light of the theoretical framework.

1. Minority empowerment and minority protection

In the absence of a coherent theory on the concept of minority *empowerment*, Rocha proposes a typology distinguishing five types of empowerment, which differ in their constitutive dimensions of locus of change (individual or community), process (from individual therapy or self-help to political representation or state-challenging political action), goal (from individual coping to institutional arrangements offering access to community services) and power experience (combination of self or other as the source and object of power). Based on these four dimensions, Rocha identifies a 'ladder of empowerment' ranging from atomistic individual empowerment via embedded individual empowerment, mediated empowerment, socio-political empowerment to political empowerment (Rocha 1997: 34).

Based on this typology, this article focuses on political empowerment, defined as a political process targeting community-level development and change in the institutional setting (*ibid*: 39). Minority empowerment thus refers to the representation of minorities in political and administrative structures at the central and local levels, which puts them in charge of the adoption, enforcement and implementation of minority protection policies. The presence of minority officials in central rule-making can be the result of certain formal arrangements institutionalized through general electoral rules, guaranteed parliamentary seats, or the exemption from entry thresholds that guarantee or facilitate parliamentary representation of minorities, access to decision-making on minority-related issues via institutions such as minority councils or power-sharing arrangements that ensure participation in government. In turn, empowerment of minorities within bureaucracies that administer laws can also be institutionalized through the recruitment process, quotas and/or political arrangements at both the central and local levels (Reynolds, 2011: 151).

Research on minority representation has been mainly concerned with the desirability of various formal institutional arrangements for minority representation or

the degree to which these different arrangements are conducive to the actual empowerment of minorities (e.g. Kymlicka, 1995; Young, 2000; Moser, 2005), based on the idea that representatives with the same functional or social characteristics as the represented are more likely to share and act in this group's interests (Phillips, 1995; Young, 2000; Wängnerud, 2009). The assumption that formal and descriptive representation of minorities in both political and administrative structures automatically leads to a pro-minority policy output has come under scrutiny in studies of both inclusive legislative politics (e.g. Reynolds, 2011) and representative bureaucracies (e.g. Meier, 1993). It is this link between minority representation or empowerment and implementation as policy output that this article wishes to examine.

Going beyond the adoption of minority protection legislation, the article focuses on implementation as an essential aspect of minority protection policy. Implementation is understood as the post-legislative policy delivery stage or institutional output in the application of minority protection laws (Winter, 2003: 136). Contrary to the approach of early implementation studies in the Weberian tradition, which assumes a clear separation between political decision-making at the level of policy formulation and the adoption of legislation on the one hand and purely bureaucratic implementation process on the other (Pressman and Wildavsky, 1973; van Meter and van Horn, 1975; Bardach, 1977), it is now widely accepted that implementation is also very much determined by politics. On the one hand, the 'sovereigns' of an implementing agency, in control of its legal and financial resources, can greatly affect policy implementation. These actors can include the legislature, the chief executive, courts, or other hierarchically superior institutions that can enforce or hinder implementation (Mazmanian and Sabatier, 1989: 33-34). On the other hand, far from being completely apolitical bureaucracies, implementing agencies themselves can have their own political commitments and incentives for implementation or non-implementation (Winter, 1990: 22).

We can distinguish four areas of minority empowerment, defined by the level at which the minority is empowered (central or local), and the domain of empowerment (political or administrative). The minority is politically empowered at the central level when a party representing minority interests is included in a coalition government. Although minority parties are almost by definition at best junior partners, who will hardly ever be able to completely determine political decisions at

the central level, it can be assumed that they will only join a government that makes at least some important concessions to minority protection, so that the minority party will have some influence on legislation in this policy area. If the minority party succeeds in gaining control of a relevant ministry, it will also have administrative powers of monitoring, supervision and enforcement with regard to adopted minority protection policies and legislation. At the local level, political empowerment is associated with gaining a majority in local or regional councils, which may have no say in central-level legislation, but a supervisory function in local implementation, and can thus enforce implementation. Finally, members of the minority party can be appointed as directors of the implementing agencies themselves, making them directly responsible for policy implementation.

Table 1. Political and administrative minority empowerment at the central and local levels

	political	*administrative*
central level	minority party is part of the government	member of the minority party heads relevant ministry
local level	minority party has majority in local or regional councils	member of the minority party heads implementing agency

2. The relationship between central policy-making and local implementation—insights from agency theory and sociological institutionalism

For the purposes of this article, we selected two organization-theoretical perspectives to generate expectations regarding the relationship between political and administrative actors at the central and local levels: agency theory (Mitnick, 1975; 1992; Moe, 1984; Bergman and Lane, 1990) and sociological institutionalism (Meyer and Rowan, 1977; Powell and DiMaggio, 1991; Scott, 2008). Both theories depart from the view of bureaucracy as a depoliticized and efficiency-oriented apparatus the primary goal of which is the execution of policies decided elsewhere, and allow for diverging, sometimes even conflicting preferences between political and administrative actors at different levels.

The policy positions of both political and administrative actors can be understood according to three fundamental orientations: policy-seeking, office-

seeking, and vote-seeking. A policy-seeking actor strives to 'maximize its impact on public policy' (Müller and Strøm, 1999: 7) and is therefore intrinsically motivated to ensure the implementation of policies that represent its core political values. Ethnic minority parties, which focus almost exclusively on the ethnic dimension of politics (Horowitz, 1985: 326) and promote minority protection as a central feature of their program (Kelley, 2004: 49), should have a strong motivation to put minority protection measures into practice. They monitor and, if necessary, intervene to enforce implementation of minority protection policies, while such measures are at best peripheral and at worst in contradiction to the aims of other parties.

Office-seeking actors pursue policies to gain access to or remain in office (*ibid*: 5). For political actors, this is mainly determined by electoral success and coalition politics, whereas administrative actors predominantly report to their superiors for (re-)appointment or promotion. In the context of minority protection, ethnic minority parties may face a trade-off between pursuing maximalist policy goals and achieving access to political power within a coalition government. Other parties, in turn, may be more willing to accept pro-minority policies if they rely on an ethnic minority party for support. Administrative actors may act contrary to their own political values if their jobs depend on it.

Vote-seeking is only available to political actors, as it entails the motivation 'to maximize their electoral support' (*ibid*: 9) even when this does not directly translate into political office, which of course does not apply to appointed administrative actors. Again, ethnic minority parties are most likely to mobilize support by implementing minority protection policies. In contrast to policy-seeking, however, the motivation is instrumental and not intrinsic, so that purely symbolic policies (Edelman, 1964; Sears, 1993) may be cost-free alternatives to costly implementation:

> [T]he act of voting for legislation with appropriate symbolic meaning can be more important to legislators than either its enactment or its implementation [...]. This is not because legislators are unusually hypocritical. It comes from practical concerns with maintaining electoral support and the substantial symbolic significance of political actions. (Baier *et al.*, 1986: 151)

Applying the above considerations to the question of minority empowerment, the 'best-case' scenario is a situation where the minority is fully empowered, i.e. controls both political decision-making and administrative positions responsible for implementation, and all actors involved are policy-seeking and therefore intrinsically

motivated to implement minority protection policies. Problems may arise if actors are not policy-seeking, and if minorities are only partially empowered, so that political and administrative actors with conflicting political views interact on different levels. In the following, expectations regarding the impact of such 'mixed' constellations on the implementation of minority protection policies are developed.

Agency theory depicts the relationship between 'principals' and their 'agents', i.e. local implementers, as one of delegation (Lupia, 2003). Of the four types of actors of minority empowerment considered (see Table 1), three act as principals. At the central level, both political and administrative actors serve as principals. Political decision-makers can influence both the formal adoption of legislation and its implementation by means of monitoring and enforcement *vis-à-vis* subordinated agencies, provided they are in a position to do so, e.g. by holding relevant positions within government such as the ministry responsible for the policy in question. At the local level, political bodies such as local councils may also act as direct principals of implementing agencies. The administrative agencies responsible for implementation at the local level, in turn, are the agents. The delegation of tasks from principals to agents is not a problem as such:

> Since knowledge of local conditions and specialized competencies are both essential and more readily found in decentralized units, control over the details of policy implementation and adaptation of general policies to local conditions are delegated to local units. (March, 1994: 193)

Delegation, however, entails the risk of 'agency loss', which may endanger implementation. Agents acquire discretion to pursue their own goals (as opposed to enacting the policies as expected by the principal) because of information asymmetries, which allow them to hide their action from oversight by the principal.

> The major insight of agency theory is that control loss is inevitable in agent-principal relationships. […] The agent and principal are supposed to have potentially differing preferences, so that the principal must expend resources both in trying to instruct the agent what to do and in monitoring and policing the agent's behavior (Mitnick, 1992: 76).

Therefore, agency theory puts special emphasis on control mechanisms employed by the principal, which can be *ex ante* (selection of the agent), during the relationship (monitoring), or *ex post* (evaluation and renewed hiring or firing of agents), and on the strategies of agents to evade such control mechanisms in order to pursue actions serving their divergent preferences. As a further aspect, multiple principals can lead to

collective action problems, as monitoring is costly and one principal may rely on another in order to free-ride on the information revealed (Gailmard, 2009).

Based on the assumptions of agency theory, we can formulate two expectations with regard to partial empowerment of minorities. On the one hand, the discretion agents may have *vis-à-vis* their principals can work positively towards implementation if the local implementer is a policy-oriented representative of the ethnic minority party and thus intrinsically motivated to implement minority protection policies. If implementation efforts can be 'hidden' from oversight, they can be pursued even against minority-sceptic principals. On the other hand, political empowerment at the central or local levels may not be sufficient to ensure implementation, if the directors of local agencies are not motivated towards implementation and successfully evade monitoring by their superiors. In both cases, local implementing agencies gain importance against their principals, but the argument is always predicated on at least a general interest of principals to monitor the actions of agents (which may be impossible or too costly) and the conscious strategies of agents to evade oversight.

Agency theory is firmly rooted within the rational choice paradigm, viewing the interaction between principals and agents as a contractual relationship that puts external constraints on the behaviour of the actors. In turn, sociological institutionalism sees actors as embedded in institutional environments consisting of taken-for-granted norms, beliefs, myths and rules that provide the frame of reference and choice for actors and organizations. Institutional environments are 'characterized by the elaboration of rules and requirements to which individual organizations must conform if they are to receive support and legitimacy' (Scott and Meyer, 1991: 123). It should be noted, however, that invoking sociological institutionalism does not necessarily involve a complete departure from the rational actor assumption (see also Nee, 1998: 11).

The relevant concept to describe the relationship between the political and administrative actors at the central and local levels is 'decoupling'. 'Because attempts to control and coordinate activities in institutionalized organizations lead to conflicts and loss of legitimacy, elements of structure are decoupled from activities and from each other' (Meyer and Rowan, 1977: 357, emphasis omitted). In other words, the actual practices within organizations may have little to do with formal rules of conduct, which are mainly set up to legitimize the organization, not to guide its day-

to-day performance. This conceptualization has consequences for both the motivation of actors towards implementation of favoured (or at least officially championed) policies and the function of monitoring and oversight.

From the perspective of sociological institutionalism, legislation fulfils the 'ceremonial' (Meyer and Rowan, 1977) task of legitimizing political actors. The ability to present legislation as a political success is more important than actual implementation. Although such behaviour may appear irrational and inefficient at first sight, it is not *per se* at odds with the rational actor model. In fact, the pursuit of external legitimacy and support from the electorate by officially promoting popular policies without any interest in costly implementation is a completely rational course of action, if office- or vote-seeking is assumed instead of policy-seeking, especially when taking into account that voters are likely to support symbolic politics.

Predominantly symbolic motivation for the adoption of legislation can therefore lead to a decoupling between the levels of central decision-making and local implementation, even when both the formal authority and the principal capacity to centrally monitor and enforce implementation exist. In fact, central-level actors may consciously choose to 'look the other way' in order to avoid detecting policy failures that would undermine their legitimacy (Meyer and Rowan, 1977: 359). Monitoring and enforcement are to be expected only when they correspond to the need for external legitimacy, e.g. when the government itself is under evaluation for its performance in minority protection issues by international organizations.

Of course, large-scale failure to implement policies that are of high importance for voters may diminish the electoral success of minority parties in the long run and make permanent decoupling difficult to uphold (Walgenbach and Meyer, 2008: 82), but there are several reasons why decoupling could be plausible. First, linguistic policies are of high symbolic value (se e.g. Citrin et al., 1990), making them especially prone to symbolic politics, even in situations where implementation would be dysfunctional. Second, minority voters may lack alternatives to punish parties for failed implementation, because they are often represented by a single party, so that elections resemble an 'ethnic census' (Horowitz 1985: 326) rather than political choices. Finally, minority party representatives may be able to blame insufficient progress on resistance by the majority or the lack of even more far-reaching legal guarantees (e.g. autonomy), thus deflecting accusations that they lack interest in implementation.

The ability to pursue purely symbolic policies may differ between political actors at the central and local levels. Although local representatives of a minority party may share the vote- and office-seeking interest in reaping the symbolic benefits of minority protection policies with political actors at the central level, there are certain differences to be taken into account. First, while at the national level a minority party can at best have political influence as a junior partner in a coalition government, it may well be the leading political force at the local level, where the minority is concentrated in a particular area and constitutes a regional majority. Second, local political actors are not directly involved in central-level rule-making, although they can still point to legislation as 'their' (i.e. their party's) achievement in order to gain legitimacy. Since they are much closer to the actual sites of implementation, however, purely symbolic politics decoupled from implementation are harder to sustain, because voters can observe the performance of institutions under the control of the minority party much more closely than at the national level.

Decoupling and largely 'ceremonial' monitoring is not necessarily a sign of dysfunctional organizations. In fact, part of an organization's legitimacy stems from the 'logic of confidence and good faith' (Meyer and Rowan, 1977: 357), i.e. the trust that tasks delegated to subordinate units are fulfilled without frequent control, even if this is achieved by informal means that are officially inappropriate. This does mean, however, that there is a considerable degree of leeway for implementation practices that are not 'by the book' but tacitly accepted or overlooked, as long as the overall image and legitimacy of the organization is preserved. In the context of minority empowerment at both the central and the local levels it can further be assumed that the principle of good faith is most likely to be applied when subordinate implementing agencies are led by members of the minority party.

For the local level of implementing agencies, the rationalist assumption of policy-oriented actors leads to the expectation that agency directors affiliated with the minority party should be intrinsically motivated to implement the core policies of their party, whereas office-seeking actors should mainly be concerned with fulfilling the expectations of their superiors, who are in a position to remove them from office. Agency theory added to this only the possibility of evading monitoring by superiors. A sociological institutionalist perspective focusing on decoupling adds several new elements to the picture: first, 'street-level' implementers may take more flexible responses for the successful implementation of centrally formulated policies than

those mandated by strict and unified legislative rules, because they are confronted with practical problem-solving tasks on a day-to-day basis. This is again in contrast to the central-level actors, because 'those who are on top of a hierarchy may be called to make those very important decisions by oversight that legitimate the organization in front of its stakeholders. In order to do so, they do not need to be able to solve problems' (Fioretti and Lomi, 2010: 121).

Second, the effects of decoupling can also be enhanced by ambiguous rules or conflicting demands from different audiences, by both enabling and requiring interpretation. Far from providing clear mandates for compliance, most legislation is vague and based on ambiguous principles, while even specific rules can become ambiguous in particular situations (March and Olsen, 1989: 24). 'The more ambiguous and politically contested the law, the more open it is to social construction' (Edelman *et al.*, 1999: 407). In order to uphold legitimacy by formally complying with the rules while at the same time retaining the ability to pursue interest- or efficiency-oriented practices, organizations 'construct the form and boundaries of compliance in a way that meets legal demands yet preserves managerial interests' (Edelman, 1992: 1532).

In summary, the sociological institutionalist perspective leads to the following predictions concerning the effects of minority empowerment on implementation. First, with regard to central-level empowerment we expect that policy-makers are decoupled from local implementation, because they engage at best in patchy supervision and enforcement, while at the same time upholding the symbolic image of successful influence on legislation. This is in contrast to the assumptions of agency theory, because it neither presumes a general interest of principals in monitoring and controlling the actions of agents, nor a conscious strategy on the part of agents to hide their actions and evade supervision. Second, systematic supervision and enforcement is more likely in the case of local political empowerment, because local politicians find it harder to legitimize their actions symbolically in the absence of efforts to ensure implementation. Third, decoupling enables a wide variety of implementation strategies at the local level, which are influenced both by the policy interests of local implementers and their need to adopt flexible problem-solving strategies addressing the requirements of the local context, both in terms of efficiency and possible negative repercussions.

3. Legal and institutional setting: minority empowerment and minority language use in Romania

3.1 *Minority empowerment in Romania*

Since the beginning of the 1990s, the Romanian electoral system has been favourable to minority empowerment from several aspects. On the one hand, the general electoral design, based on the principle of proportional representation, has benefited the establishment and maintenance of a party system with a greater number of smaller parties, including ethnic ones (Birnir, 2007: 72). In addition, a further special arrangement favours the legislative presence of larger minorities: an alternative electoral threshold ensures participation in the distribution of mandates, provided the individual candidates of a political party or electoral coalition win a relative majority in six electoral districts for the election of deputies and three districts for the election of senators, simultaneously (Art. 47 of Electoral Law No. 35/2008). In turn, the representation of smaller minorities has been granted through one guaranteed seat in the Romanian Chamber of Deputies to minority organizations that obtain less than the set electoral threshold, under the terms of the electoral law (Art. 47 of Electoral Law No. 35/2008).

This electoral arrangement has been especially favourable to the political participation of the largest minority community, the Hungarians in Romania. Combined with a demographic weight of 6.5% of the Romanian population,[1] Hungarian ethnic mobilization has resulted in the formation and continuously strong electoral performance of a Hungarian ethnic party, the Democratic Alliance of Hungarians in Romania (DAHR) both at the central and local levels.[2] In addition to its good electoral results, the DAHR has also managed to secure its position as an essential political force by taking part or co-operating with most of the governing coalitions since 1996 in Romania. This political weight has, in turn, led to the presence of a considerable number of DAHR-affiliated office-holders in both central and local state administration. With regard to developments in the protection of national minorities in Romania, the pivotal political position of the Hungarian minority party has also had an instrumental role in the adoption of a series of laws in this domain.

3.2 *The administrative sites of minority language use in Romania*

The main sites of minority language use in the Romanian public administration are located at two levels: the state level and the local level. State-level public administration includes the presidency, the government and the specialized institutions of state administration at the central level, as well as the so-called 'deconcentrated' state authorities at the level of the 41 counties. In this context, the institutions relevant to the implementation of minority language use are the institution of the prefect and the deconcentrated institutions of state administration operating at the county level. The prefect is a unipersonal organ of ministerial administration nominated by the government (Art. 1(2) of Law No. 340/2004 on the Institution of the Prefect). As the county-level representative of the government, the prefect supervises and co-ordinates the deconcentrated institutions that are the county-level representatives of the ministries and other organs of central public administration, serving as a link between the public, other county-level or local-level institutions and the central administration. Such institutions are, for example, county agencies for pensions, public health, environment, public finances, workforce distribution, or school inspectorates. The principle of deconcentration refers to the fact that these institutions are centrally managed which, similar to the institution of the prefect, confers a certain centralized but also political character on them.

On the other hand, public administration at the local level includes the authorities of the local council, the mayor, the county council and its president who operate in their respective territorial administrative units, such as communes, towns and counties. Local and county councils dispose of the competence of establishing and managing the institutions of county-level public interest that are subordinated to the local or county councils (Art. 24 of Law No. 215/2001 on Local Public Administration) and much of their activity, budget and management is established and approved through county council decisions. Such institutions include, for example, county libraries, hospitals, museums or institutions for social assistance and child care. County councils can thus exert influence on these public institutions that also fall under the scope of minority language use legislation and its implementation.

Viewing the Romanian administrative structure in terms of the previously outlined framework, empowerment and the competence for policy enforcement are relevant for the central level of government, including ministries and the prefects, as well as local or county councils at the regional level. From the perspective of agency

theory these three types of actors serve as 'principals'. In turn, minority policy implementation is the task of deconcentrated institutions and agencies subordinated to the local and county councils, which correspond to 'agents' in the above outlined agency theory framework. While deconcentrated institutions respond only to ministries and prefects as their principals, county councils fulfil this position for institutions subordinated to them.

3.3 *Minority language rights in the public administration in Romania*

One of the main policies advanced by the DAHR has been the protection of minority language rights. The inclusion of the DAHR in the Romanian government in 1996, complemented by the onset of Romania's accession process to the European Union marked a gradual shift in language use regulation from a limited toleration of minority language use to a more protective conception of language policies (Horváth, 2009: 208). This change followed a development towards a positive state duty to protect and promote minority languages, culture and equality of opportunity as opposed to the earlier idea of formal equality and non-discrimination. Nevertheless, the point of departure for the regulation of minority language use in official communication in Romania was the establishment of Romanian as the official language. Minority languages were not granted either full or partial official status, but members of national minorities had the right to use their mother tongue in specific situations (Varga, 2006: 30).

The basic principles for legislation on the use of minority languages in public administration in Romania are provided by the constitution of 1991, amended in 2003, which stipulates that '[i]n the territorial-administrative units where citizens belonging to a national minority have a significant weight, provision shall be made for the oral and written use of that national minority's language in relations with the local public administration authorities and the deconcentrated public services' (Art. 120(2)). The Law on Local Public Administration 215/2001 links the exercise of this constitutionally guaranteed minority language right to a minimum of 20% presence of minorities in a territorial-administrative unit, where 'the authorities of local public administration, the public institutions subordinated to these, as well as the deconcentrated public services shall assure, in rapport with these [i.e. the minorities], the use of the mother tongue, as well' (Art. 19).

Focusing only on local public administration, Article 76(2) of the same law stipulates that in the specified territorial-administrative units, minority members can address the authorities of local public administration and the organs subordinated to the local council in their mother tongue and 'will receive an answer both in Romanian, and in the mother tongue'. At the same time, official documents are to be completed in Romanian (Art. 76(5)). Further, local authorities 'shall assure' the sign of the localities of the public institutions under their authority, as well as of announcements of public interest, appear in the respective minority language (Art. 76(4)). Finally, positions that involve relations with the public 'shall also include persons who know the mother tongue of the citizens belonging to the respective minority' (Art 76(3)). This provision also appears in the Law No. 188/1999 on the Statute of Public Functionaries, which states that in territorial-administrative units meeting the 20% minority population threshold, 'some functionaries from public services that have direct contacts with citizens will know the language of the respective minority, as well' (Art. 108). These stipulations referring to local public administration were subsequently elaborated by Government Ordinance No. 1206/2001, which specifically spelled out implementation guidelines and deadlines. No guidelines for implementation have been adopted regarding deconcentrated institutions, since the scope of the law was only extended to these with the 2003 amendment of the constitution. At the international level, this legislative framework is reinforced by the European Charter for Regional or Minority Languages of the Council of Europe, signed in 1995 and ratified in 2008 by Romania.

4. Minority empowerment and implementation strategies in Romania

In order to examine the relationship between minority empowerment and minority protection policy implementation, our case studies examine minority language policy as one area in which empowerment of the Hungarian minority has led to the adoption of a series of laws. While minority language protection includes a wider range of domains for language use, such as education, judicial authorities, media or economic, social and cultural activities, this article focuses on the use of minority languages in contact with administrative authorities and public services as the most straightforward empowerment and implementation scenario, independent of additional conditions such as target group demand. In view of the substantive provisions of the Romanian legal framework described above, minority language use includes the linguistic

landscape,[3] including signs outside and inside public institutions, as well as written and oral communication in the minority language.[4] In order to focus on the role of minority empowerment during the implementation process, we control for financial costs by excluding written communication as it involves financial and human resource investment. Accordingly, implementation is examined by the presence or absence of bilingual signs and oral communication in public relations, respectively. The latter is assessed on the basis of positions reserved for speakers of Hungarian or the requirement of knowledge of Hungarian for positions involving public relations.[5]

Our units of analysis are implementing agencies within a timeframe restricted to the period of the agency executive in office. We have chosen institutions from both deconcentrated and local types, headed by executives affiliated to the DAHR. These institutions have been selected from two major groups of administrative districts: counties with a clear majority of Hungarians and counties where Hungarians are in a minority. As the main source of our data we rely on 60 elite and expert interviews conducted over the course of 2011 in Romania. In order to identify causes and mechanisms of behaviour, strategies and beliefs of actors (Beamer, 2002: 87) whose activities are crucial for the implementation of minority language policy, the interviews targeted central and regional political leaders, prefects, sub-prefects, county council presidents and vice-presidents, as well as executives of deconcentrated institutions and local institutions subordinated to county councils. Interview data with chief decision-makers and implementers have been cross-checked with independent case knowledge and additional data from cross-interviewing respondents, interviews with other observers and experts, on-site observation, as well as newspaper job advertisements featuring Hungarian language requirements. The following describes the enforcement behaviour of both central- and local-level political actors and the various implementing strategies adopted by the selected implementing agencies. Since the institutionalization of bilingual signs and minority language communication is the competence of implementing agency executives, it is their behaviour that is examined at the administrative level.

4.1 *Implementation behaviour at the central level*

As already indicated, DAHR officials present in both the government and the central state administration act as principals with the competence to enforce and monitor the implementation of minority language rights. The DAHR has been regarded and has

posited itself as a 'proxy for the Hungarian minority' (Shafir, 2000: 101), with the policy of minority language protection as one of its central concerns. The legislative developments achieved by the DAHR in this domain have been communicated as a major achievement during its activity as a government actor over several terms in Romania (e.g. Romániai Magyar Demokrata Szövetség, 2004). At the same time, DAHR officials assert that the implementation of minority language legislation is not systematically regulated within the party, either through any specific implementation strategy, general guidelines, structural arrangement or the appointment of a person in charge of overseeing the process. Although minority language use has been a main point of priority of the DAHR program, implementation is considered to be the obligation of local councils, without the need for any guidelines or orders from the party leadership, especially where the minority party holds a majority in the county council. In turn, where Hungarian officials are in a minority within the local or regional councils, the party leadership expects them to try to enforce the legislation by themselves or signal if any problem should arise.[6] The responsibility for implementation and the signalling of potential problems is thus relegated to the local levels of government, without a centrally planned enforcement of minority language use provisions. The delegation of implementation tasks is reminiscent of the above-mentioned idea of decoupling based on the logic of confidence and good faith, which involves discretion delegated to implementers, as long as overall legitimacy is not harmed. Monitoring is also said to be delegated to institutions such as the Romanian Government Department for Inter-ethnic Relations (DRI) or the Romanian Government Institute for Research on National Minorities (ISPMN), without visible feedback of these institutions' activity into an encompassing implementation strategy at the minority party level.

At the same time, central level party officials are also aware of the fact that implementation works smoothly mainly in administrative districts where the DAHR is also 'in charge' in the local and regional councils. The awareness of central party officials regarding problems in the implementation of minority language provisions is even stronger in the case of deconcentrated institutions accountable to ministries, where 'the law has to be enforced in a more resolute manner, especially in oral communication'.[7] Nevertheless, this necessity for more enforcement does not translate into any strategy at the central party level for these agencies either. In addition, as DAHR officials from the party leadership admit, there is no specific law

that would regulate the implementation of minority language use in the deconcentrated institutions, despite the fact that this right is enshrined in the constitution. Although—as empirical evidence from deconcentrated institutions shows—the legislation does allow for a more flexible interpretation to include deconcentrated institutions, there is also no unified official interpretation developed and provided at the central level of the DAHR.

Whereas policy-seeking behaviour would imply the motivation of an ethnic minority party to ensure the implementation of minority protection measures, the lack of an implementation strategy from the DAHR, combined with delegation of both enforcement and monitoring, indicates an overall reliance on symbolic politics buttressed by legislative success. The decoupling of legislative achievements from implementation, in turn, leads to different enforcement strategies by the principals under examination. At the same time, this ethnic minority party behaviour does not fit with the expectation of an involved principal employing various mechanisms of control and oversight with regard to its agent in order to ensure implementation, as suggested by agency theory.

In the absence of central-level implementation guidelines or legal interpretation, interpretation of the law and its enforcement lies with either the specific ministries or the prefect's offices, which in principle have an implementation and monitoring competence over the county-level deconcentrated institutions. With a number of DAHR officials serving as ministers and prefects at the time of data collection, policy-seeking on their part would imply both an inclusive interpretation of the above-described legislation and the enforcement of its systematic implementation in the deconcentrated agencies subordinated to them. Superior agencies should be especially concerned with enforcement in cases when directors of these subordinated agencies fail to implement minority language use provisions.

The enforcement activity of DAHR ministers is most observable for bilingual signs, which is an 'easy' case for implementation due to its limited financial costs and high visibility that allows for easier monitoring by the superior agency. An overview of ministry intervention on the implementation of bilingual signs indicates inconsistent behaviour across DAHR-headed ministries. On the one hand, evidence is found for the targeted intervention of one DAHR minister, which has led to the erecting of bilingual signs in subordinated agencies throughout various counties with different proportions of Hungarian population above the required 20%. In turn, the

data also show several ministers appointed by the DAHR who fail to actively intervene in favour of implementation, despite the fact that their subordinate institutions do not implement minority language provisions.[8] As for the implementation of minority language communication provisions, no active intervention by the ministries has been recorded at all, regardless of the local implementation situation.

These different types of enforcement behaviour by ministers indicate the overall lack of systematic superior agency intervention in accordance with a well-established and unified interpretation of the rules and specific implementation guidelines. Although policy-seeking behaviour of minority officials empowered within central-level administrative structures would mean the monitoring and enforcement of implementation, these different types of behaviour once again point to the decoupling of legislative behaviour from actual implementation. In turn, decoupling disproves the basic expectation of agency theory regarding the presence of implementation-oriented and motivated principals who enforce and monitor implementation through various mechanisms.

4.2 *Implementation behaviour at the local level*

Decoupling between central-level political and administrative enforcing agents yields a high degree of agency discretion regarding the implementation of minority language provisions in the case of deconcentrated institutions at the county level. While the assumption of policy-oriented behaviour by DAHR officials heading various implementing agencies would again predict the implementation of minority protection legislation, the data show that this expectation does not hold for all cases. On the contrary, implementing agents affiliated to the DAHR display different degrees of actual commitment to the desirability of an institutionalized minority language use, regardless of the county. This is reflected in different strategies in the implementation of minority language provisions and a wide variety of policy outputs, not only across but also within counties with different proportions of Hungarians. In the following, these various strategies of deconcentrated agency executives are discussed in light of the specific county contexts.

The implementation of bilingual signs can be assessed by their presence or absence. In turn, strategies regarding the implementation of minority language communication provisions show a wider range of solutions. Under the most generous

interpretation of the legislation, implementation can happen through official inclusion of the requirement of knowledge of Hungarian as an eligibility requirement for positions involving relations with the public. Beside this official strategy, agency executives also often use their discretion to apply informal ways of assuring a certain positive differentiation, either through personnel reshuffling or the *de facto* application of a Hungarian language knowledge requirement. This strategy of informal implementation signals a compromise between a policy-oriented approach aimed at institutionalization, and practical, problem-solving considerations arising from contextual factors. Since informal measures do make minority language communication possible in official contacts, the official condition of Hungarian knowledge requirement can be relaxed so that informal measures can also be considered as implementation. A third approach towards implementation involves a *laissez-faire* or *ad hoc* management of minority language communication in the public domain, without any implementation activity by agency executives. In these cases, street-level bureaucrats in direct contact with the public are expected to solve any communication problems that should arise. When it comes to *de facto* communication at the street level, this *ad hoc* approach may or may not result in the actual use of the minority language, depending on individual street-level bureaucrats' disposition and the demographic context.[9]

There are cases where bilingual signs are present and cases where they are absent across deconcentrated agencies in counties where Hungarians are in a minority. Explicitly committed to the proactive implementation of minority language provisions in general, there are examples of a policy-oriented strategy by DAHR-affiliated directors who have bilingual signs put up at their own initiative, openly taking responsibility for it. On the other hand, another DAHR-affiliated implementing agent in the same territorial-administrative district claims to be uncertain about the regulation of this issue: 'maybe it is also possible to have them [i.e. the signs] in Hungarian, but nobody has demanded it, everyone knows where they have to come, there have been no problems of this kind'.[10] This implementing agent displays a more problem-solving approach to minority language use (as opposed to a policy-oriented attitude), relegating the necessity for implementation to the presence or absence of either superior agency intervention or target group demand. In addition, evidence also indicates instances of implementing agencies headed by DAHR officials who

implement bilingual signs only due to explicit superior agency intervention in the form of a general order issued by the prefect's office.

The same differences in commitment are also discernible for the implementation of minority language communication. In cases of policy-oriented behaviour, there is an openly expressed view that opportunities offered by law should be better used. According to this view, there is a need to develop a bureaucratic structure that mirrors the proportion between majority and minority in the population of the respective administrative district. This is an even more generous interpretation of the law, which goes beyond the requirement that Hungarian-speaking officials be employed in offices with regular public contact. Actual realization of this policy commitment is, nevertheless, contingent upon further contextual factors, and leads to informal implementation of these principles, as opposed to an official measure. In fact, empirical evidence reveals no cases of official Hungarian language requirement in counties where Hungarians are in a minority. Similar to this informal implementation strategy to secure a proportionally representative bureaucracy, another informal solution is to internally reshuffle the personnel in a way that Hungarian-speaking employees are located in all relevant offices within the agency.

Agency discretion and the application of informal implementation strategies seem to be in line with an agency-theoretical explanation of behaviour. Informal measures to implement pro-minority policy can be explained by the scenario of a committed, policy-seeking agent pursuing implementation while evading potential principal oversight. At the same time, this scenario offers only a partial explanation, since we find no empirical evidence for principals who are actively pursuing an anti-implementation strategy—at most what can be observed is neutral, disinterested principals. Based on the interview data, this informal implementation strategy could be potentially explained by implementing agents' uncertainty regarding possible negative legal repercussions or negative reactions from their principal, their own employees, or the Romanian public itself.[11]

In a comparable county context, institution directors displaying purely problem-solving behaviour see no need for any positive duty regarding implementation. In these instances, the implementation of minority language communication is seen as hinging on external demand by the superior agent or the Hungarian population as target group. In the absence of external demand, DAHR-affiliated agency executives consider the implementation of communication

provisions to be accomplished by their own presence. In this sense, the duty of the executive is 'not to fill the agency with Hungarians'.[12] The main guiding principle for action in these cases of deconcentrated institutions is practicality, as opposed to a policy-oriented approach. Legislation is interpreted strictly, i.e. not including institutionalized minority communication, while the main task is that 'all problems should be solved in a civilized and legal manner'.[13] Any positive steps for securing minority language communication are interpreted as being against the law and superfluous, as the agency does have Hungarian employees by default, due to the demographic composition of the county. Potential problems that might arise with minority language communication are thus dealt with on a case-by-case, *ad hoc* basis. As mentioned, this approach relies on individual responses by street-level bureaucrats and often results in a lack of minority language use in actual communication.

In counties where Hungarians are in the majority, DAHR officials have implemented bilingual signs. In turn, in the case of minority communication, the evidence indicates differences in agency commitment and implementation strategies similar to counties where Hungarians are in the minority. Some implementing agents interpret the legislation in an exclusive way, i.e. as excluding the institutionalization of minority language communication. Commitment to institutionalized implementation is also present, as some implementing agents formulate the desirability of a certain positive duty to ensure the proportional presence of employees with a minority background. In turn, the implementation strategies of committed agents are contingent upon the specific contexts of the agencies. One of these solutions is refraining from an official requirement of Hungarian knowledge for any types of employment, implying a compromise solution between policy implementation and practical considerations. Like in counties where Hungarians are in the minority, proportionality is ensured in these cases by informal positive employment measures, or internal personnel reshuffling. Alternatively, some agency executives openly include the Hungarian language requirement in job advertisements, regardless of whether the positions involve relations with the public or not. This overly generous interpretation of the legislation is often curbed through legal response.

Whereas the minority empowerment-implementation picture has shown decoupling at the central level and various implementation strategies applied by implementing deconcentrated institutions, this relationship is somewhat different in

the case of implementing agencies subordinated to county councils. This difference is mainly due to the enforcement behaviour of local political structures that reflect minority empowerment at the local level. As opposed to the decoupling strategy of central-level political and administrative structures, despite their full empowerment and competences to monitor and enforce implementation, empirical evidence shows that full empowerment at the local level, i.e. the majority presence of Hungarian officials in the county council, leads to a pro-active enforcement of the legislative provisions. This pro-active enforcement characteristic of counties with an overwhelming Hungarian majority is manifest in systematic guidelines concerning the implementation of both examined aspects of minority language use in official communication. These clear guidelines and enforcement lead to a uniform strategy of policy implementation, regardless of the presence or absence of implementing agency commitment. Policy-oriented behaviour by political actors is reflected in an overly inclusive interpretation of the law on minority language communication, going even beyond the requirement of Hungarian knowledge only for positions that involve relations with the public.

The presence of a proactive policy-seeking principal regularly applying mechanisms of enforcement and oversight appears in line with the agency-theoretical framework. At the same time, this framework once again captures the relationship between superiors and implementing agents only partially, since for institutions subordinated to local councils no empirical evidence has been found for conflicting interests between agents and principals. This, in turn, corroborates our expectation from the sociological institutionalist perspective, positing that decoupling behaviour is less likely for the local level of implementation, where purely symbolic politics and non-implementation is much more visible to the public.

While a pro-active enforcement behaviour is enabled by full empowerment through the demographic make-up in counties with Hungarian majority, local minority political empowerment is insufficient in counties where Hungarians are in minority. Due to the lower presence of Hungarians in the county council, the enforcement of minority language provisions reflects a situation of compromise between policy-seeking and practical considerations of day-to-day problem solving. Legislation is interpreted in a strict way as referring mainly to bilingual signs, while communication in the minority language is considered to be implemented automatically through the *de facto* presence of Hungarian officials in agencies

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subordinated to the councils. Implementation is also partly relegated to target group demand, the lack of which is presented as the main reason for actual non-enforcement. In turn, this lack of superior agency enforcement or monitoring confers discretion to their subordinated agencies in the implementation process. Since minority empowerment is insufficient in these cases, no clear explanation can be given to the behaviour of superior agencies or principals.

Conclusion

This article has addressed the relationship between minority empowerment and minority protection by analysing the implementation of language rights in Romania. The focus has been on situations where the minority is both politically and administratively empowered on the central and local levels: members of the Hungarian minority party were not only represented in government and led the relevant ministries, but also had local influence in the county councils and were placed in positions as directors of implementing agencies. Drawing on insights from agency theory and sociological institutionalism in organization theory, the finding is that sociological institutionalism captures more fully the different implementation strategies of DAHR officials at both the local and central levels. Thus, the implementation of language rights in Romania is best understood as a decoupled process between central political decision-making, which is mainly oriented towards gaining legitimacy through highly symbolic legislation, and local administration engaged in problem-solving. Against the assumption that minority empowerment at different levels should guarantee implementation, the analysis shows a differentiated picture that is more in line with the institutionalist concept of decoupling.

First, at the central level, despite the political empowerment of the DAHR leading to legislative successes and ministry positions with the competence to enforce and monitor policy implementation, such efforts by central DAHR officials were rare. Instead, the behaviour of the party elite corresponds to the institutionalist view that policy-makers seek legitimacy by engaging in symbolic politics and presenting legislative successes, while decoupling themselves from implementation through purely 'ceremonial' oversight and delegation in 'good faith' in order to avoid the detection of policy failure. This indicates the limits of minority empowerment in cases when policy-seeking is not an intrinsic behaviour.

Second, the analysis has found that local political actors are engaged in more proactive monitoring and enforcement efforts in those counties where the minority is empowered by having a majority in the county council. While active principal engagement is posited as a central element of agency theory, it is only a partial explanation since no evidence is found for agents with conflicting interests. Instead, this finding corroborates the sociological institutionalist assumption that decoupling is more difficult to uphold for local political actors, because they and their electorate are closer to the implementation sites and implementation failure is more difficult to ignore or deflect. In addition, it shows that minority empowerment at the local level has a positive impact. This is also confirmed by our finding that very limited enforcement measures have been taken in counties where the minority is not predominant and thus does not hold a majority in the county councils.

Third, the decoupling of central monitoring and enforcement by both empowered political and administrative actors allows for variation in local implementation strategies. These strategies also depend on the local demographic weight of Hungarians in the respective administrative districts. More specifically, we have detected both the implementation and non-implementation of bilingual signs, as well as informal and *ad hoc* measures for the implementation of minority language communication, indicating the presence of both policy-seeking and practical strategies towards implementation in the counties where Hungarians are in the minority. In turn, implementation of bilingual signs and informal, *ad hoc* but also institutionalized implementation have been found in counties where Hungarians are in the majority. This once again signals a variation in policy-seeking and practical behaviour. In view of these different behaviour patterns at both levels of political and administrative enforcement and implementation structures, the analysis shows that minority empowerment does not automatically imply policy-seeking behaviour on the part of implementing agents, and thus does not always lead to institutionalized implementation of minority protection measures.

Notes

1. See the results of the 2011 Census in Romania.
    http://www.insse.ro/cms/files/statistici/comunicate/RPL/RPL%20_rezultate%20definitiv,
    e_e.pdf. Retrieved: September 16, 2013.

2. For the evolution of DAHR election results see for example: http://www.electionguide.org/countries/id/178/. Retrieved: September 16, 2013.
3. Linguistic landscape has been defined as the 'visibility and salience of languages on public and commercial signs' and it has been considered vital as the symbolic expression of the status of linguistic communities (see Landry and Bourhis, 1997).
4. Although specific implementation norms have been adopted only with regard to institutions of local public administration, the mechanisms of implementation have also been extended by analogy to centrally-managed, deconcentrated institutions. This choice has also been empirically corroborated, as implementation decisions do include all these mechanisms in the case of deconcentrated institutions as well.
5. *De facto* language use at the street-level, which can happen through demographic circumstances in a given administrative district, is not considered as institutionalized implementation of minority language communication.
6. Interview with a leading DAHR official. 24 October 2011.
7. *Ibid*.
8. The source of information on the presence or absence of bilingual signs is on-site, direct observation in the selected cases (2011).
9. On-site direct observation supports the idea that *ad hoc* measures lead to very limited possibility for minority language communication in counties where Hungarians are in minority, whereas it is possible in counties where Hungarians are in the majority due to the demographic context.
10. Interview with a DAHR-affiliated deconcentrated agency director, Targu Mures. 29 July 2011.
11. *Ibid*. Interview with a DAHR-affiliated deconcentrated agency director, Zalau. 7, 11 November 2011.
12. Interview with a DAHR-affiliated deconcentrated agency director Zalau, 14 November 2011.
13. Interview with a DAHR-affiliated deconcentrated agency director, Targu Mures. 29 July 2011.

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