

Sign Languages of Europe – Legal Status and Human Rights

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Abstract

Sign languages across the globe are fully-fledged languages that differ between Deaf communities throughout Europe and the world. A recent survey by the European Union of the Deaf gathered that there are about 650,000 sign language users in the EU for whom using a sign language is the only way to communicate and have equal access. It is therefore crucial to legally recognise national sign languages. Being treated equally without prejudice also with regards to language is a basic Human Right as postulated in the UN Declaration of Human Rights. Other rights, such as the right to education and a fair trial can only be guaranteed if sign languages are recognised as distinct languages in order to provide sign language interpreters and education in sign language. At EU level, a number of documents and Resolutions have been adopted but so far only three European countries have recognised sign language at constitutional level: Austria, Finland and Portugal. Other countries, such as Hungary and Spain have taken other legal measures to protect their sign languages. Although Europe's sign languages enjoy some recognition, sign language users across Europe are still lacking legal protection at the same level as other minorities.

1 European Union of the Deaf (EUD)

The European Union of the Deaf (EUD) is a European non-profit making organisation whose membership comprises National Associations of the Deaf (NAD). Established in 1985, the EUD is the only organisation representing the interests of the Deaf¹ at European Union level. The mission's aim is to promote and advance the (Human) Rights of the Deaf in Europe by achieving the recognition of the right to use sign languages, empowerment, and equality in education and employment (EUD 2010a).

2 Sign Languages

2.1 National Sign Languages

Despite widespread opinions there is not one single universal sign language in the world. Sign languages vary between countries and ethnic groups; some countries even have two or more sign languages such as Belgium or Switzerland. Sign languages also show distinct dialects that vary from region to region. Nonetheless, national sign languages are fully-fledged languages that have a grammar and lexicon just as any spoken language (see for example Sutton-Spence & Woll, 1999 for British Sign Language).

2.2 International Sign

At international conferences or meetings an auxiliary language – referred to as International Sign (IS) – is used to communicate among Deaf people who do not share a common language. The EUD uses IS for example at board meetings and its Annual General Assembly, as determined in the EUD Internal Rules (EUD 2010c). The World Federation of the Deaf (WFD) has even established it as its official working language next to English (WFD 2003). IS is however not actually a discrete language, it is a contact language whereby signers will use signs from their respective natural sign languages along with established IS signs and simplified grammatical structures (Locker McKee & Napier 2002).

2.3 EUD survey

A recent EUD survey (2008) estimated that there are about 650,000 sign language users in the EU. This is not to be confused with the number of deaf or hard of hearing people, which is much higher. Currently, there are approximately 7,000 sign language interpreters in the EU. This results in an average ratio of 93 sign language users to 1 sign language interpreter. Among the EUD members, Finland has the highest ratio of 6 to 1 and Slovakia the lowest with 3,000 to 1.

Although Finland's ratio of 6 to 1 might sound very good compared to other European countries, this is still not enough to provide for all Deaf people. There is no "ideal" ratio that could be stated here but it is worth noting that although Finland's number is close to ideal, the profession of Finnish Sign Language interpreters is not adequately paid. A Finnish Sign Language interpreter earns for example €18.45/hour (SVT 2010). In comparison, a British Sign Language Interpreter charges about €23/hour on average (ASLI 2008). In most countries, sign language

¹ Deaf with a capital 'D' relates to Deaf people who consider themselves part of the Deaf Community and use sign language as their first or preferred means of communication. This is in contrast to 'deaf', which merely describes the audiological status of non-hearing.

interpreters are paid less than spoken language interpreters and have a lower professional status. The US seems to be one of the only countries where this is not the case (Bancroft, 2005). So although Finnish Deaf people might have more access than Slovakian Deaf people, the standard is by no means the same as that of a hearing person or even a member of a minority group receiving interpretation into their mother tongue.

3 Sign Language and Human Rights

3.1 Sign Language as Mother Tongue

Sign languages are the only languages Deaf people are able to acquire naturally and spontaneously (Jokinen, 2000). Therefore, they should be seen as the mother tongue of Deaf people, although most Deaf people (approximately 90%) grow up in hearing families and do not necessarily learn a sign language until later in life (Krausneker, 2006). Sign language as the mother tongue of Deaf people is in accordance with EUD's philosophy and also with Skutnabb-Kangas and Bucak's (1995) external definition of mother tongue, which states that a person must identify with his/her language and/or use it as a primary means of communication. This means that although the respective sign language might not be acquired in the family and also not necessarily as the first language (L1), it should nonetheless be treated as the mother tongue of Deaf people – not only in educational settings but also regarding access to work and public authorities.

When a Deaf child has been granted the right to its mother tongue it is also later more likely to be able to learn the surrounding majority language (in its written form) and this will furthermore increase chances to have access to higher education or other further education programmes (Emery 2009).

3.2 Human Rights

The UN Declaration of Human Rights (UNDHR 1948) grants rights to everyone regardless of certain characteristics such as language or religion. A person is to be treated equally, even if he or she does not speak the national language. For minority language speakers this becomes an issue if their language is not protected by legal measures. It also means that although everyone should be treated equally, this person will receive additional services – such as a (sign) language interpreter – if the language is legally recognised. This is for example the case with Welsh in the UK. It is argued that sign languages should be legally recognised to grant Deaf people Human Rights with regards to their language, as the language is the key to other basic Human Rights, such as education or fair trial.

3.3 Linguistic Human Rights

Using Skutnabb-Kangas and Bucak's (1995) definition of mother tongue, Deaf people can claim Linguistic Human Rights (LHR) in regard to sign language (Skutnabb-Kangas 2000). LHR are a hypothetical concept but in

recent years legislation in the EU and the world has come into effect giving Deaf people more and more rights with regards to sign language and equal access. Skutnabb-Kangas claims that LHR are language rights that are needed to guarantee basic Human Rights. For example, in order to gain access to education, a person needs to be able to understand the teacher. This is only possible when having primary education in one's mother tongue. Additionally, she states that education should not only be in the medium of the mother tongue but that the language should also be taught as a subject in schools. She also grants collective rights to minority groups, such as the right to exist. Using this theoretical concept is useful in understanding the (Human) Rights that Deaf people are denied on a daily basis when not being able to use their language with authorities, in trials, at school or at work.

3.4 Minority Rights

Although d/Deaf people are often only seen as a disability group in need of support, Deaf people see themselves as a minority group with a distinct language. Just as any other member of a minority group, Deaf people require access in their mother tongue. It is even more crucial for Deaf people to be granted this right, as they are not physically able to learn spoken languages to a level that is sufficient to communicate with hearing people directly. Currently most legislation relating to sign language and sign language interpreter provision is embedded in disability legislation. Although this is sometimes seen as not fully recognising a national sign language, it is an effective means to provide for access.

4 Sign Language Legislation

4.1 UN Convention

The recent UN Convention on the Rights of Persons With Disabilities (UNCRPD), which came into force in 2008, is the first international document to mention sign language explicitly. It is a milestone in achieving Human Rights for Deaf people, as it grants rights concerning accessibility and education. It places legal obligations on States to abolish discrimination and protect and promote the rights of persons with disabilities, including Deaf people. The UNCRPD requires States to take measures to provide assistance for example in the form of professional sign language interpreters.

Although this is a first step it is questionable what effect the Convention will have in the near future as individual States as well as the EU have adopted the Convention but not yet widely implemented it in respective country legislation.

4.2 EU Resolutions

Apart from adopting the UNCRPD, the European Parliament adopted a Resolution on Sign Languages in 1988, which was reiterated in 1998. It calls on the European Commission and its member States to legally recognise the sign languages of Europe. The Resolution also acknowledges the fact that a number of Deaf people

need to communicate in sign language, as this is the only possible language. Moreover, it states that the sign languages of Europe are distinct languages that each have their own cultural identity.

These two Resolutions are not legally binding but show that the European Parliament is aware of the needs of sign language users across Europe. The fact that this Resolution was already adopted over 20 years ago but the situation of Deaf people has – in some countries – not changed significantly is worrying and makes it clear that a Resolution at EU level might not be the best way to give Deaf people equal Human Rights. To achieve that European instruments adequately protect Deaf people, the EUD works closely with representatives of the European Parliament.

4.3 Council of Europe

The Council of Europe (CoE) has published a number of reports and recommendations regarding sign languages in its member states. Most notably it published a Recommendation regarding the protection of sign languages in member States in 2003 (Rec 1598). This recommendation takes note of an older Recommendation (Rec 1492) relating to minority languages including sign languages. Although not legally binding, such a document shows the CoE's growing awareness of a need to protect sign languages in the same way as other minority languages.

Krausneker (2008) submitted an expert opinion for the CoE regarding the needs of sign language users across Europe. This needs analysis does not only offer concrete examples of how to tackle inequalities, the paper also describes clearly how sign language users need access in sign language to be granted full (Linguistic) Human Rights. It formulates 25 recommendations that States should adopt and implement. These range from legal recognition of sign languages as part of minority rights to granting access to information.

5 Sign Language as a Constitutional Right

5.1 Sign Language Legislation

Although sign languages have been recognised at EU and UN level to a certain extent it is important for individual countries to change their laws accordingly. If this is not done there is a risk of these laws not having any effect on Deaf people's life. Only three countries have recognised their national sign language at constitutional level: Austria, Finland and Portugal².

Some countries – such as Finland, Spain the Czech Republic or Slovakia – have passed laws that give Deaf people rights with regards to education, sign language interpreters, or access to work. Hungary recently (2009) adopted the most comprehensive piece of sign language

legislation granting – among other things – the right to learn Hungarian Sign Language and have access in that language through a free interpreter service that is funded by the State. This is a significant and unique piece of legislation, as it immediately provided the funds necessary for the free interpretation service in its current Budget Act and added specific deadlines for example for the provision of in-vision interpreters and subtitling on national television. This shows that although Hungary has not recognised its sign language at constitutional level rights are nonetheless accorded to Deaf people. It also makes clear it is not necessarily better for the provision of services to recognise the national sign language on such a high level. Sweden has for example incorporated a bilingual education policy in their education law, which has had a greater effect in Deaf people's lives than a single sentence recognising ÖGS (Austrian Sign Language) in the Austrian Constitution, as Verena Krausneker noted at the EUD seminar in 2009.

5.2 Austria

Austria recently (2005) changed its Federal Constitution to contain an Article on ÖGS. It states: "Austrian Sign Language is recognised as a fully-fledged language. More shall be regulated by further laws" (Article 8(3)). This is a significant step for Deaf people in Austria, although no further laws have thus far been enacted. The positioning of the sentence is also an important factor as paragraph (1) and (2) deal with the national language of Austria and the linguistic and cultural diversity of the country.

The law has had an effect on the teacher training and on educational policy in general. Austrian Sign Language is now part of teacher training and although no formal law has been passed, a certain shift in attitude can be seen. For example a number of Deaf schools in Vienna now have adopted bilingual education policies.

5.3 Finland

Finland was the first European country to recognise sign language at constitutional level in 1995. The Constitution of Finland states: "The rights of persons using sign language and of persons in need of interpretation or translation aid owing to disability shall be guaranteed by an Act" (Chapter 2 Basic rights and liberties, Section 17 Right to one's language and culture). Finland has a history of being a country with two official languages – Finnish and Swedish – and granting equal rights to speakers of these two languages. Additionally, the Sami and Roma are given the status of an indigenous people. Sign language is mentioned in the same section as Sami and Roma, which gives it a similar status as these minority languages.

It is also worth noting that the section does not speak of deaf people but of "persons *using* sign language". This is significant, as not everyone who is deaf necessarily is in need of a sign language. But on the other hand the Constitution does not recognise Finnish or Swedish Sign Language as a specific language, like it was done in Austria. Contrary to Austria Finland has however adopted a range of other pieces of legislation, which further regulate the recognition of sign language. Most notably,

² It should be noted that some countries, such as the UK do not have a Constitution and therefore cannot legally recognise sign languages at such a level.

the Finnish Education Act (628/1998) recognises sign language as a mother tongue that needs to be taught as well as being used as the language of instruction. Finnish Sign Language is interestingly also mentioned as a requirement for naturalisation if oral skills cannot be demonstrated (see Nationality Act 359/2003). Other Acts include the Language Act and the Act on Yleisradio Oy, the Finnish Broadcasting Company. The Finnish Parliament is also currently (Spring 2010) discussing a new legislative proposal for interpreting services for persons with disabilities, which aims to ensure at least 180 hours of free interpreting services per year, excluding educational needs (EUD 2010b).

The example of Finland shows that when sign language is recognised at constitutional level, Acts need to follow to have an effect on Deaf people.

5.4 Portugal

Portugal recognised Portuguese Sign Language in 1997 in its Constitution. Article 74(1)2 on education states: “In implementing the education policy, the State shall be responsible for [...] h) Protecting and developing Portuguese Sign Language as an expression of culture and an instrument for access to education and equal opportunities”. Although mentioning Portuguese Sign Language and not only the term sign language, as seen in the Finnish Constitution, it is significant that the language is recognised in the article relating to education, which shows that Portugal does not see their national sign language as the mother tongue of Deaf people, or as a minority language; it is seen as an “instrument”. But on the other hand it means that education is provided in sign language. Portugal has not – like Austria – adopted other legal measures to provide for example access to work through a free sign language interpretation service.

6 Summary

The recent EUD survey (2008) investigated sign language use and legislation in Europe to gain a clearer picture of the current legal situation. Three countries have recognised sign language at constitutional level. Although recognising that this is an important step for sign language users in the respective countries, legal recognition at such a high level has to be seen with caution. Formally, it is an improvement but in reality it sometimes has no or only little effect. Deaf people are however in need of a legal basis to defend their basic Human Rights. The recent UNCRPD grants these rights but nonetheless, this important document needs to be implemented in the relevant country legislation to have an effect in Deaf people’s lives. Interpreters are not yet widely available and education is often still provided orally rather than using a bilingual approach. When having put legislation in place, it is crucial to then provide financial means and ensure these services can actually be provided by for instance fostering interpreter training programmes. Overall, there are various pieces of legislation in place but it cannot be forgotten that sign languages are minority languages that their speakers depend on, as they have no equally efficient means of communication. This makes

recognition crucial and lets this issue become a true question of Human Rights.

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