

## THE NEW REGIONAL LAW ON THE DEFENCE OF THE FRIULIAN LANGUAGE

William Cisilino\*

### Summary

1. Introduction
2. Regional Law no. 15/96
3. Law no. 482/99 on the defence of historical linguistic minorities: influence on the juridical status of Friulian
4. The new Regional Law on the defence of the Friulian language
5. The impugment by the Italian Government
6. A questionable appeal

### 1. Introduction

The official recognition of the Friulian linguistic minority is very recent and is established by three laws: Regional Law no. 15 of 1996 of the Autonomous Region Friuli-Venezia Giulia, Law no. 482 of 1999 of the Italian Republic and Regional Law no. 29 of 2007 of the Autonomous Region Friuli-Venezia Giulia.

Prior to these laws, the only references to the Friulian language that could be found in both state and regional legislative texts were only incidental, or relegated the defence of the Friulian language to a more ample project of cultural promotion. These provisions were, therefore, more inclined to developing Art. 9 of the Italian Constitution of 1948 (defence of cultural heritage), rather than focusing on the specific principle of the defence of minorities, established by Art. 6, which says that “the Republic defends linguistic minorities with specific regulations”.

In order to understand the reasons (at least the juridical reasons) that caused such a great delay in the general implementation of Art. 6 of the Constitution, we must consider that the central Government considered the defence of

---

\* William Cisilino, president of the Istitüt Ladin Furlan “Pre Checo Placerean”. Article received: 10.09.2008; review: 12.09.2008; final version accepted: 22.09.2008.

the minorities as being exclusively within its competence and refused any type of initiative taken up by the Regions to regulate this phenomenon (regional laws were systematically turned down because “they invaded an area that falls within the competence of the State”).

The passing of the Regional Law no. 15/96, and of the other regional laws with a similar content, inaugurated a new phase in the positions held by the State towards the minorities (which several decisions made by the Constitutional Court had already anticipated) and paved the way for the passing of the law on the defence of historical linguistic minorities in 1999 (which had been shelved by Italian Parliament for over 20 years).

Before reviewing the new regional law - the recent impugment of which by the State is a stepback from the openings of the previous years - it is worth giving a brief summary of the provisions set out by the previously mentioned regulations on linguistic minorities.

## 2. Regional Law no. 15/96

On 27 February 1996, under the heading “Regulations for the defence and promotion of the Friulian language and culture and founding of the Service for regional and minority languages”, the Council of the Autonomous Region Friuli - Venezia Giulia promulgated the first organic law for the defence of the Friulian language.

The first element to consider is the value ascribed to Friulian in the regional context: Art. 2 defines Friulian as “one of the languages of the regional community” and considers “the defence of the Friulian language and culture as a matter of central importance for the development of the special autonomy”. Of central importance is also Art. 1, which obliges the Region to “exercise an active policy of preservation and development of the Friulian language”.

Art. 5 establishes the modalities for delimiting the territories where the regional law will be effective, which will also have validity for the state law.

Perhaps the most important regulations of Law no. 15 are contained in Art. 11 and in Art. 11 bis, since they admit the possibility to apply certain linguistic rights in favour of citizens who speak Friulian. These Articles establish the possibility for local boards with statutory autonomy to provide for: a) the written and oral use of Friulian in their Councils; b) the use of Friulian place-names; c) the use of Friulian in other situations, such as in the relationships with citizens.

The law has established a number of regulations for “cultural promotion” (especially by establishing the modalities of funding to associations or public bodies that operate in the fields of Friulian language and culture), which take up most of the funds. Moreover, it elects the “Observatory of the Friulian language and culture” as the Region’s instrument for the defence of the Friulian language, even if, in reality, this institution has simply been reduced to a consultative commission. In 2005 the Observatory was replaced by the *Agenzie pe Lenghe Furlane* (Friulian Language Agency), an independent body comprising not only of the Region but also by Friulian Provinces, Municipalities and the University of Udin.

### 3. Law no. 482/99 on the defence of historical linguistic minorities: influence on the juridical status of Friulian

Law no. 482/99 was promulgated on 15 December 1999 in order to put into practice the fundamental principle on the defence of minorities provided for by Art. 6 of the Constitution, which had been waiting to be carried out for over 50 years.

With regards to our discussion on the influence that these new state laws have had on the juridical status of Friulian, first of all it must be said that thanks to this law (Art. 2) Friulians can be considered under all effects a “recognised minority”: this allows for the application of the specific juridical consequences established by the regulations and those that the jurisprudence of the Constitutional Court has tied *sic et simpliciter* to this status.

The most important regulations of this law are those that regard the introduction of Friulian into the school system and in radio and television programmes (i.e. the two sectors in which Regional Law no. 15 was unable to intervene directly). The legislator decided to introduce Friulian into the school system on two levels. The first level, contained in the first paragraph of Art. 4, regards the use of Friulian as a vehicular language and prescribes the use “of the minority language as a teaching implement” in nursery, elementary and secondary schools. The other level, established by the second paragraph of Art. 4, regards the teaching of Friulian as a curricular subject: in this case, the regulations prescribe that every school, in the fulfilment of its organizational autonomy, has to decide upon methods, schedules, assessment criteria and teaching staff recruitment methods, in order to guarantee the teaching of the minority language, not without taking into consideration the requests parents make before enrolment.

It must be said that neither of these provisions give schools a mere “option” to insert activities in favour of the minority languages, but rather a real obligation. Therefore, while schools are obliged to arrange for activities in Friulian, parents can choose to ask that their children be excluded from the teaching of Friulian.

Another very important set of regulations are those regarding the introduction of minority languages in public radio and television broadcasting (RAI) (Art. 12). Relying once again on a text that reveals a binding nature (“conditions of safeguarding *are ensured*”), the legislator has established that the pact between the Ministry of Telecommunications and the Agency holding the concession for public television must contain specific measures for the defence of the minorities. However, almost 10 years since its coming into effect, this regulation has never been implemented.

With regard to the use of Friulian in local boards, the state law, with its imperative quality, is more favourable than the regional law. In fact, Art. 9 of Law no. 482 provides for a general right for citizens to use the minority language in oral and written forms in public offices, without having to wait for the specific regulations laid down by the local board’s statutes or by the Region. Moreover, the same Law establishes that all the administrations must ensure “the presence of personnel who *can answer* questions asked by people using the language granted defence” (italics added): this assumes that citizens have a right to be answered in their mother tongue.

Finally, the law no. 482/99 sets out the right to use the Friulian language before the Justice of Peace and in criminal law proceedings whereby the sentencing authority has competence over the delimited territory.

#### 4. The new Regional Law on the defence of the Friulian language

In December 2007, the Autonomous Region Friuli-Venezia Giulia promulgated a new organic law to protect Friulian, the Regional Law no. 29/2007 called “Regulations to defend, enhance and promote the Friulian language”, which represents an important step forward for this minority language. The new law extends, for instance, the linguistic rights in the public administration by establishing the duty for public institutions to provide “language policy plans”, according to what already happens in other minority languages contexts. Other contents of the law — as toponymy and linguistic certifica-

tion — complete a process which began many years ago and which needed a final legislation. Particularly important is the legislation about schools, maybe the most difficult area of application, as it was of exclusive competence of the State until 2001. Finally, the new regional law has strengthened the role of the *Agenzie pe lenghe furlane*.

Regional Law no. 29/2007 is the synthesis of four different law proposals presented during the ninth Regional Legislature. These included the bill no. 257 submitted for approval by the Regional Government on 18 June 2007 (Regulations for the defence, enhancement and promotion of the Friulian language), which was also the basis text adopted by the Council Commission. According to the bill drawn up by the Regional Government, the new regulations had to rest on five “principles”.

The first principle refers to the respect of autonomies. According to the law, Local Authorities and other public bodies are expected to adopt a language policy plan, but the choice of what to include in the plan falls within the powers of the bodies themselves. These bodies, in other words, can decide the quantity, the quality and the extent of the measures to adopt. In addition, the current legislation prescribes the respect of the school autonomy in the education sector. The duty to guarantee basic teaching derives directly from the law no. 482/99, whereas the decision to offer a more advanced provision lies with the individual teaching institutions, with the financial support of the Region.

The second principle refers to citizens’ free choice. Therefore, in the school sector the principle of giving parents free choice whether to enrol their children in Friulian language classes or not remains essentially unchanged. Free choice is also given in other sectors. Public bodies will guarantee the services, but these will be an opportunity for citizens, never an imposition.

The third principle regards the mandate granted to the *Agenzie Regionâl pe Lenghe Furlane* (ARLeF) to provide guidelines, plan and coordinate the law. By delegating activities and interventions to the *Agenzie*, which, in addition to the Region involves Provinces, Municipalities and the University of Udine, the law involves the main public entities interested in promoting the Friulian language.

The fourth principle regards the flexibility of interventions. The law is complete from an organic and structural point of view, i.e. it includes all the interventions required for the implementation of a fair and effective language policy without setting rigid parameters.

The fifth principle regards assessments. It is believed that the supervision over the law implementation should not only consist of administrative and accounting audits, but should also include an assessment of the effectiveness of the cost incurred. Given the complexity of the law, it was thought worth it to envisage a direct role for ARLeF also in the assessment and to include a periodic conference promoted and organised by the Regional Council.

The text as it left the Council room essentially complies with the five principles outlined above, even though in some cases it diverges from the proposal by the Regional Government, sometimes to extend its application, sometimes to introduce brand new legal institutes. Let us now look at its content.

The law, subdivided in 8 sections, consists of 34 articles. **Section 1** (Articles 1-5) provides general provisions. **Article 1** defines the purposes of the law, namely and above all the defence, enhancement and promotion of the Friulian language in its different expressions. In addition to that, the Region shows its commitment to carry out an active policy aimed at preserving and developing the culture and traditions of the Friulian community. It is the first time that a law defines Friulian as Friuli's "own language".

**Article 2** recalls the fundamental legal framework underpinning the law: at international level, the Universal Declaration of Human Rights, the European Convention on Human Rights and Fundamental Freedoms, the Central European Initiative Instrument for the Protection of Minority Rights, the OSCE documents undersigned by Italy, the European Charter for Regional or Minority Languages and the EU Constitutional Treaty; at national level, the law no. 482/1999; at regional level the law no. 15 of 22 March 1996. Surprisingly, the law does not refer to the Framework Convention for the Protection of National Minorities issued by the European Council, even though it has been adopted by the Italian State.

**Article 3** defines the territory in which the law is applied, i.e. the area set in accordance with the Regional Law no. 15/96. **Article 32** ("Final regulations") disciplines any changes in the delimited territory — within 2 years from the coming into effect of the law — that may be passed by virtue of a Regional Presidential Decree on the basis of consistent and motivated deliberations by each individual Municipal Council. Article 3 provides also for language knowledge courses organised in the rest of the Region as well as initiatives targeting Friulians migrated abroad and Friulian speakers living in the Veneto Region (through agreements).

**Article 4** contemplates the possibility of working with institutions in the various Ladin-speaking communities in Veneto, Trentino-Südtirol and in the Grisons Canton as well as with the internal language minorities (Slovenian, Friulian and German).

**Article 5** confirms the official spelling of the Friulian language (Article 13 of the Regional Law no. 15/1996) providing for its amendments to be made through a Regional Presidential Decree on a proposal by ARLeF and in agreement with the Universities of Udine and Trieste. The deeds and documents written in Friulian and issued by the Region, Local Authorities and their instrumental bodies providing public services through concessions are written according to the official spelling.

**Section 2** (Articles 6-11) regards the public use of the Friulian language. **Article 6** disciplines the public use of the Friulian language by systematising the provisions set forth in law no. 482/99 and by the jurisprudence of the Constitutional Court, expanding its protection. The rules apply to all Local Authorities, the Region's Administrative offices and bodies and to all the institutions providing public services through concessions and operating in the municipalities within the territory. However, the breadth of the law was diminished by the last sub-section (introduced at the last minute during the debate in the Regional Council in order to ensure the support by the majority) according to which "the bodies involved shall gradually implement the law in accordance with the annual objectives and within the context of the language policy plan".

**Article 7** establishes that the knowledge of Friulian should be assessed by a "linguistic certification". This action is required in order to set a unique and consistent method in line with the European directives, to assess the knowledge of the Friulian language and to allow for the application of some laws already in effect.

According to **Article 8**, the acts notified to the general public and other information of a general nature (such as institutional communications and publicity) must be written also in Friulian. Also in this case, the law envisages a gradual implementation, as in Article 6.

**Article 9**, building up on the provisions of Article 7 of the law no. 482/1999 reiterates the right to use the Friulian language in Municipal Councils and in the other Municipal collective organs that fall within the delimited territory, delegating to the individual bodies the task to ensure that those who do not

understand the Friulian language have access to an adequate translation into Italian.

**Article 10** introduces, within the delimited territory, the visual use of the Friulian language alongside the Italian, in street signs and, generally, in any other sign visible to the public (always with the uncertainty involved in the “gradual implementation”).

The Section closes with a specific rule (**Article 11**) focusing on place-name in Friulian. In order to guarantee consistency in the use of toponymy — i.e. above all in street sign, a very widespread custom throughout the territory — the responsibility to establish the official Friulian name of town and cities lies with ARLeF in agreement with the Municipalities involved. In any case, in line with the provisions of the Legislative Decree no. 267/2000, local authorities can choose to make official the names in both Italian and Friulian or just in Friulian.

**Section 3** (articles 12-18) defines the interventions in the education sector. **Article 12** includes Friulian teaching and learning in the context of multilingual education in infancy, primary and 1<sup>st</sup> level secondary schools located in the Municipalities defined. This article establishes also the much-debated system of “informed dissent”. “With the exception of the autonomy of schools”, when parents enrol their children and the school has given them adequate information and a written request, they inform the school that they do not want to take advantage of Friulian language teaching. A preference system (albeit minor) has thus been introduced in comparison with the system applied so far, according to which parents had to specifically apply for the teaching of Friulian. This application method of the law no. 482/99, however, was fairly heavily disputed - in terms of both interpretation and implementation - so the legislator was right in making the law clear on this point.

**Article 13** sets the framework for the cooperation between the Region, the Regional school office and school authorities for the purpose of implementing the provisions set out by the law.

Through **Article 14** - the real core of the school reform - the teaching of Friulian is guaranteed for at least one hour a week throughout the school year, with some flexibility recognised to the autonomy of the schools.

**Article 15** establishes the funding framework for the Regional initiatives set out in Articles 13 and 14; **Article 16** provides for the support for the Region to the production of teaching material.

**Article 17** deals with the issue of how to manage the demand for teaching staff that is qualified to teach Friulian. In addition to adequate training, a list of all the qualified teachers of Friulian is drawn up.

Through **Article 18** the Region commits to activate training and information activities to publicise the introduction of Friulian teaching into the school curriculum. In addition, the Region supports and promotes Friulian teaching to adults, immigrants and school institutions not located within the delimited territory.

This section closes (**Article 19**) with the definition of the “volunteers of the language” activity, modelled on the initiative called “Voluntaris per la llengua” promoted by the Generalitat de Catalunya.

**Section 4** (Articles 20-23) deals with the interventions in the media sector without introducing major changes. The same can be said about **Section 5** (Article 24) focusing on the activity of cultural associations.

Conversely, **Section 6** (Articles 25-27) is extremely important and innovative and deals with planning. According to **Article 25**, every five years ARLeF proposes a General Language Policy Plan (GLPP) approved through a Regional Presidential Decree having consulted the competent Council Commission. On the basis of the GLPP and taking into account the budget availability, the Regional Government adopts the Intervention Priorities Plan proposed by ARLeF (**Article 26**), which establishes the objectives to be achieved during the year.

**Article 27** establishes that Local Authorities and public services providers through concessions approve a Special Language Policy Plan (SLPP) to set the objective projects to be achieved every year within each area of intervention. The approval and compliant application of the Special Language Policy Plans are the conditions that local authorities and public service providers must adhere to in order to be eligible for the funding established by the law.

**Section 7** (Articles 28-30) regards the implementation and assessment. **Article 28** defines the role of ARLeF (the organisation responsible for defining the guidelines for the language policies for Friulian) and sets its tasks.

**Article 29** introduces the evaluation clause, assigning to the Regional Government the duty to submit an annual progress report on the implementation of the law to the Council. In addition, every five year, before the submission of the GLPP for the following five-year period, the Regional Government

must present to the Council a report on the results achieved in terms of expansion in the use of the Friulian language.

**Article 30** gives the President of the Regional Council the tasks of calling for an Assessment and Proposal Conference once every five years to review the progress of the law implementation.

The last section of the law is **Section 8**, which focuses on transitional and final regulations.

## 5. The impugment by the Italian Government

As already mentioned in the introduction, the Italian Government - at that time headed by Romano Prodi - decided to impugn the Regional law through Appeal no. 16 of 18 February 2008 and published on the Official Law Gazette no. 15 of 2 April 2008. The dispute concentrates on seven points. Let see them briefly.

According to the Government, the general obligation for the offices of the whole Region, including those operating outside the areas of settlement of the Friulian speaking community, to reply in Friulian, to draw up the deeds notified to the general public in Friulian and to translate institutional communications and publicity in that language is in conflict with Law no. 482/1999 whereby the use of the minority language is limited only to the Municipalities where that language group is settled.

In addition, by establishing that “in order to guarantee the translation for those who do not understand the Friulian language, the speeches may be repeated in Italian or a written translation may be provided at the same time” the Regional law does not ensure enough protection for non-Friulian speakers. On this point, according to the Government the Regional Law is in conflict with the “exclusive value of the deeds in the texts written in Italian” included in Law no. 482/99.

Another point of conflict is the article that provides for the use of place-names in some cases “in just the Friulian language” which, according to the Government, clashes with the Law no. 482/99 and even with the constitutional principle of equality of all citizens.

Article 12 on school learning of the minority language, which includes the so-called “informed dissent”, essentially represents — according to the Government — an imposition to schools to provide such teaching, thus conflict-

ing with the school autonomy principles and, once again, with the constitutional principle of equality.

The same principle as well as Article 117 on the allocation of competences between State and Regions are infringed by Article 14, which establishes that the teaching of Friulian is guaranteed for at least one hour a week.

Finally, the support to Friulian also in schools located within the Region but in non-Friulian speaking areas — I am quoting the Government — “can lead to serious risks of discrimination against teachers and students of State schools, as well as similar risks for citizens in their relationship with the local public administration and, consequently and inevitably, for the employees of the public administration”.

## 6. A questionable appeal

In my opinion, the impugnement by the Italian Government is rather questionable because the law on Friulian, if analysed in detail, fully complies with the Italian Constitution as well as the Autonomy Statutes.

First of all the impugnement contains a fundamental error, i.e. it assumes the Law no. 482/99 as the only parameter of constitutionality, almost as if it was a Constitutional Law, with the excuse that “it illustrates the implementation guidelines for Article 6 of the Constitution”. Since 1983, the Constitutional Court has reiterated several times that the protection of language minorities does not represent a subject *per se*, but rather a principle that all public subjects are obliged to comply with in the performance of their tasks. This means that the Law no. 482/99 is certainly a regulation principle for concurrent laws but cannot be construed as a binding element for areas that fall within the exclusive responsibility of the Regions. Another very important point must be made here: according to Article 18 of the Law no. 482/99, the laws approved by Special Statute Regions prevail over Law no. 482/99, to the extent that the provisions set forth in the Law no. 482/99 apply “only” if there is no Regional law on that matter.

If we look at the individual elements on which the appeal is based it will be easier to understand what I mean. For example, the Government disputes the extension of the protection outside the delimited territory because, the Government says, violates Article 9 of the Law no. 482/99. However, this article is binding for the State administration, not for the Regional administration or Local Authorities, over which our Region has full powers to pass laws. The

same can be said about the regulation of the use of Friulian in Municipal councils (with the aggravating circumstance that the Regional Law always establishes specific guarantees for those who do not understand Friulian).

Also the objection around toponymy does not stand up: following the amendment of Title 5 of the Constitution, the Regions have been exclusively competent on that matter. Furthermore, it must be stressed that the Legislative Decree no. 267/2000 has already attributed to Municipal Councils full powers over place names. The Law on Friulian simply takes note of that. Besides, there are hundreds of official towns with names that have existed only in Friulian since the Unification of Italy.

Finally, the school. Here the impugment clashes with the specific autonomy system granted by the Government to our Region. On the one hand, the implementation decree of the Autonomy Statute, adopted through Legislative Decree no. 223/2002 has allocated specific powers to the Region to coordinate the teaching of Friulian. On the other hand, at the end of 2005 the Central Government granted powers to the Region to give guidelines on 20% of the school curriculum.

Also the issue of the so-called “informed dissent” by the parents must be played down. On accurate analysis, this law offers more guarantees than the Law no. 482/99 by introducing “adequate information for the parents” not included in the latter. It is obvious, in this case, that the Region simply wanted to simplify the enrolment procedure, considering that 70% of the parents (data from 2006/2007) already chooses Friulian at school for their children.

Hopefully the Constitutional Court will confirm the total legitimacy of the new regional law as soon as possible, so that it can be clearly and fully applied, taking into account also the large number of implementation regulations envisaged by the same law. The risk is not only of a potential negative decision by the Court, but also in a long disimplementation phase for the law — which, despite the impugment, continues to be formally in effect — while waiting for the decision. It would be a total waste of time that the Friulian language right now cannot afford.