CHAPTER TWELVE

QUOTA SYSTEM, CENSUS AND DECLARATION OF AFFILIATION TO A LINGUISTIC GROUP

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I. Introduction

“In those days a decree went out from Caesar Augustus that all the world should be enrolled.”1 From those words of the Gospel of Luke, we see that the most important event of the Christian history, the birth of Jesus Christ, happened during the days of a census. The baby was born in Bethlehem because Mary and Joseph moved from their residence, Nazareth, to the village where the latter was originally from, in order to be registered in the census ordered by the Roman Emperor.

This historical event shows us that the practice of counting the people inside a determined area dates back to ancient times. However, whereas the census of Augustus was rather conceived as a statistical instrument, which was also useful to show the world how powerful the Roman Empire was at that time, in South Tyrol the census and the declaration of affiliation with a linguistic group are instruments for the implementation of the quota system, which ultimately is a positive measure of minority protection.2

The quota system, which has become one of the most peculiar features of the South Tyrolean autonomy, foresees that German, Italian and Ladin speakers shall be considered in certain fields according to their numerical strength inside the population. The reason for the introduction of this system goes back to the fascist period, where German and Ladin speakers were practically excluded from certain positions and resources. As one of the results of this policy, the public administration of the post-war period was, to a large extent, filled by Italian speakers. In 1972, when the Second Autonomy Statute came into effect, less than 10% of civil servants in the state administration came from within the group of German and Ladin speakers (662 out of 7,131).3 The proportional quota system was

* This article was discussed and written jointly, with Emma Lantschner mainly responsible for Section II and Giovanni Poggeschi for Section III.
2 For a study on the declaration of affiliation with a linguistic group and the quota system and their compatibility with EU law, see Stephan Grigolli, Sprachliche Minderheiten in Italien, insbesondere Südtirol, und in Europa (Peter Lang, Frankfurt am Main, 1997), 254–332.
introduced as a means to redress such disproportional distribution among Italian, German and Ladin speakers. The quota system and its application in different fields will be examined in part II of this contribution.

In order to determine the numerical strength of each linguistic group, a mechanism was conceived: the declaration of affiliation with a linguistic group. This mechanism has undergone various changes in the course of recent years. Part III of this chapter is dedicated to the evolution of this instrument and its current application. The analysis starts from a normative background, trying to focus on the very nature of the techniques and to understand them, together with the quota system, as decisive and dynamic features of the South Tyrolean autonomy.

II. The Quota System

While the application of the quota system in the public administration is the most widely known field of application and is seen as the quota system strictu sensu (discussed below under Part A), the same system applies also to the allocation of financial resources (e.g., in the fields of culture and housing), as well as to the composition of certain political organs. These latter fields of application will be discussed below under Part B.

A. The Quota System in the Public Administration

The quota system is based on the Gruber-Degasperi Agreement, which provided for “equality of rights as regards the entering upon public offices with a view to reaching a more appropriate proportion of employment between the two ethnical groups”.4 This quite vaguely formulated demand has been translated into Article 89 ASt, which states in para. 3 that “[t]he posts [in state offices in the Province of Bolzano] shall be reserved for citizens belonging to each of the three linguistic groups in proportion to the numerical strength of those groups”.5

The purpose was to create and maintain an ethno-linguistic pluralism inside the South Tyrolean administration. In the foreground stands not so much the interest of the single individual but the interest of each of the groups in controlling a proportionate amount of public offices and resources.6 This positive

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4 Emphasis added. The German and Italian translations of the English original have caused differences in interpretation as regards the concrete content and obligation arising from it. It can, nevertheless, be considered to be the provision that allowed for the introduction of the quota system in the South Tyrolean autonomy. See, in that sense, Lukas Bonell and Ivo Winkler, Südtirols Autonomie (Autonome Provinz Bozen/Bolzano, 8th ed. 2005), 98.

5 Emphasis added. The Gruber-Degasperi Agreement only talked about the German and Italian speakers, not about the Ladin, who were included then in Art. 89 ASt.