

**MULTICULTURALISM  
IN PUBLIC POLICIES**

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#### GRAFIČKO OBLIKOVANJE

Mr Milorad Mitić

#### ŠTAMPA

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prof. dr Vladimir Vuletić, Faculty of Philosophy, University of Belgrade  
dr Vera Klopčič, Institute for Ethnic Studies, Ljubljana  
prof. dr Robert Mikac, Faculty of Political Sciences, Zagreb

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# MULTICULTURALISM IN PUBLIC POLICIES

## EDITORS

dr Goran Bašić

prof. dr Mitja Žagar

prof. dr Siniša Tatalović



Academic Network  
for Cooperation in  
South East Europe



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## Foreword

■ The Academic Network for Research Support in Southeast Europe was based on the ideas and activities developed and fostered through the research of multiculturalism and ethnicity by researchers in several university centres in the region – the Institute for Ethnic Studies in Ljubljana, the Centre for International and Security Studies at the Faculty of Political Science in Zagreb, and the Centre for Ethnicity Research in Belgrade.

Although formal cooperation has never been established among these rather diverse institutions and organisations, the flow of ideas and communication among them has been maintained continually. Since 1996, a group of experts gathered around Professor Siniša Tatalović of the Faculty of Political Science in Zagreb, has been organising multidisciplinary scholarly gatherings on ethnicity research methods and diversity management practices in multiethnic societies. In Belgrade, a group of dedicated experts from the Centre for Ethnicity Research has developed the first comparative research of multiculturalism policies in the region, published in the collections of papers *Demokratija i nacionalne manjine* [Democracy and National Minorities] (2002), *Democracy and Multiculturalism in South East Europe* (2003) and *Perspektive multikulturalizma u državama zapadnog Balkana* [Prospects of Multiculturalism in Western Balkan States] (2004). Finally, in Ljubljana, at the Institute for Ethnic Studies, founded in 1925, diverse research has been conducted on the

phenomena of multiculturalism and ethnicity. Although they developed independently of one another, these research endeavours and activities have been linked in intellectual synergy and the common need to provide answers to the questions on the organisation of multiethnic societies, emerging in the course of the democratic transition of the region, consequently resulting in the creation of a tightly knit network of researchers and ideas, which easily attracted and expanded the circle of interlocutors and collaborators.

The Institute of Social Sciences in Belgrade, with its strong academic centres researching migration and ethnicity, recognised the importance of the aforementioned research and first joined in, and later developed and strengthened the structure of the network. The Academic Network for Research Support in Southeast Europe was established at the round table *Democracy, Multiculturalism and Ethno-Cultural Policies in West Balkan States* and, in addition to the three aforementioned academic institutions, the co-founding document was also signed by the Faculties of Political Sciences from Sarajevo and Podgorica and the Euro-Balkan University from Skopje in early September 2017.

The collection of papers *Multiculturalism in Public Policies* offers a review of the ongoing issues concerning the status of national and ethnic minorities and immigrants, as well as of the ways in which their status is regulated in five countries of the region: Bosnia and Herzegovina, Montenegro, Croatia, Macedonia and Serbia. Although all these states have adopted multiculturalism policies, they are facing different challenges of multiethnicity. The institutional and social responses to these challenges have not always been in line with the expectations of the people to live safely, unafraid of being abused due to their nationality, religion or any other personal trait rooted in their ethnicity. The characteristics of the existing multiculturalism policies were carefully analysed in this publication and the ideas offered herewith by the authors to the scientific and social community are to contribute to deliberations on the organisation of multiethnic societies based on trust, the rule of law and stability.

Goran Bašić  
Mitja Žagar  
Siniša Tatalović

**Mitja Žagar**

Full Professor PhD,  
Scientific Councillor at the Institute for Ethnic Studies



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# Diversities, Multiculturalism, Inter-Culturalism and Diversity Management in Southeast Europe<sup>1</sup>

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## Abstract

The chapter discusses concepts, definitions and maps of geographic and political regions, specifically Southeast Europe, The Balkans and Western Balkans. It shows that concepts and definitions of regions, as well as mental and geographic maps are not value and ideology neutral, but rather products of times, environments and circumstances, including values, ideologies and balance of power that influenced their authors. I present multi-ethnic, multicultural and multi-religious composition and nature of regions as, well as of individual countries that determine the social framework in which different approaches to, as well as concepts, ideologies, strategies and policies of multiculturalism and inter-culturalism are developed and applied. Ideologies, strategies and policies of multiculturalism and inter-culturalism are analysed as segments of successful diversity management, particularly of effective strategies of regulation and management of socially relevant diversities in plural and diverse contemporary societies.

*Keywords:* Southeast Europe, the Balkans, multiculturalism, inter-culturalism, diversity management.

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<sup>1</sup> This chapter is based on research and different expert activities implemented in the past decades and funded by the ministries responsible for science, research and development of the Republic of Slovenia, Slovenian Research Agency, European Commission, Council of Europe, Organisation for Security and Cooperation in Europe, United Nations with some of their specialised agencies, etc.

## 1. Introduction: The context

■ Southeast Europe is one of Europe's most diverse and plural regions. Diversities and pluralities there are logical consequences of historical developments, considering the fact that (traditionally) the Balkan Peninsula as the key constituent part of Southeast Europe has been a natural bridge for historical (human) migrations<sup>2</sup> as well as traditional crossroads of peoples, civilizations and religions. As a consequence, the population(s) of Southeast Europe and, particularly, the Balkans, as well as individual states located there are ethnically, linguistically, culturally, religiously and otherwise plural and diverse.<sup>3</sup>

Speaking of geographic regions, we usually consider them objective facts. However, this is not the case. Politically as well as scholarly, defining regions and geographic areas – by including or excluding certain territories, by determining criteria for inclusion or exclusion and by attributing specific characteristics to certain areas – is of crucial importance. Maps are and have always been social construct(ion)s. In other words, maps, mental and geographic ones, particularly political maps, as well as the selection of objective and subjective criteria and elements that determine geographic regions, are all subjective, socially and ideologically conditioned. They are products of their times, social conditions, balance(s) of power, prevailing interests, values, ideologies, perceptions and interpretations that exist in certain times. Additionally, their authors usually pursue certain social, political, military and ideological goals. Although scholars, including geographers and historians, attempt to objectivise their findings, views and interpretations and often claim their objectivity, they are products of their times and cannot be value and ideology neutral.<sup>4</sup>

<sup>2</sup> This natural bridge played a role already in the initial historical migrations out of Africa to Europe as well as throughout the history. See, e.g. The Great Human Migration, Smithsonian.com.

<sup>3</sup> Even the merest glimpse at the statistical data concerning the population of the countries in the region, as well as at the relevant encyclopedic entries confirms this claim.

<sup>4</sup> Discussions on the objectivity and subjectivity of research, and particularly in social sciences, persist for decades. Research methodologies and apparatus used by researchers should contribute to the objectivity of research.

I have been studying Southeast Europe, particularly the Balkans and the territories of the former Yugoslavia for more than three decades. My research focuses on the population(s), identity, ethnicity, ethnic relations, culture(s), religion(s), coexistence, inclusion, integration, cooperation and conflict, as well as on historical, economic, political and social development, democratisation, policies and politics in individual countries and regions, used as specific case studies and in comparative perspective. In this context, my key research interests are studying coexistence, cooperation and conflict in diverse societies, particularly from the perspective of successful regulation and management of (socially relevant) diversities that aim to promote inclusion and integration, as well as prevent the escalation of crises and conflicts and – when this proves impossible – to manage and/or resolve them. As an advocate of human rights, social activist and promoter of free and equal inclusion, integration, democracy and democratisation, I hope that this can be done in inclusive, peaceful and democratic ways based on human rights and I stress the importance of minority rights and protection in this context. In my research, I try to use research approaches and methods developed in social studies, law and humanities in order to rigorously pursue the highest possible level of objectivity. I believe that researching complex (social) phenomena listed above requires complex research approaches and methodologies, multi- and inter-disciplinarity, triangulation,<sup>5</sup> broader comparative contexts, as well as their (innovative) combinations as advocated by methodological pluralism (e.g., della Porta & Keating, eds.; 2008). However, as pointed out above, research cannot be value and ideology free. Consequently, I should add that I appreciate and like these territories and peoples, as well as care for them. In other words, my attitudes and values influence my research, its findings and particularly interpretations (e.g. Žagar; 2012).

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However, as Gunnar Myrdall (1969) points out, research, research results and particularly their interpretation in social sciences and humanities, but also in other sciences (including natural sciences and disciplines), are never value or ideology free.

<sup>5</sup> A simple visual presentation of triangular research approach/method that I am using in my research of social phenomena is presented in Annex I: Triangulation.

As presented, speaking of and defining Southeast Europe, the Balkans and, recently, the Western Balkans is not socially or politically neutral and objective. There are no universally accepted definitions of those regions. Additionally, definitions of those regions might change in time, and they do. Usually, for my research I use the following definitions of the Balkans, the peninsula named after one of its mountain chains.<sup>6</sup> Geographically, I define it as the region which includes the territories delimited by the lower Danube and Sava rivers (to the North), by the Adriatic Sea and Dinaric Mountains (to the West), the Ionian Sea (to the South-West), the Mediterranean Sea (to the South), the Aegean Sea (to the South-East) and the Black Sea (to the East). According to this geographical definition, the territories of Slovenia, Croatia North of the river Sava and Istria peninsula, Serbia North of the rivers Sava and Danube, particularly Vojvodina, Serbian northern province, as well as Romania North of the river Danube are not parts of the Balkans. I tend to follow traditional political definitions of the Balkans and include the entire territories of Albania, Bosnia-Herzegovina, Bulgaria, Greece, Kosovo, Macedonia, Montenegro, Romania, Serbia, as well as the European part of Turkey that without doubt are the Balkan countries and define themselves as such. Considering historical and political developments and criteria, however, sometimes my political definition of the Balkan region also includes Croatia although it is geographically only partially a Balkan country and Slovenia, as parts of the former Yugoslavia. Among those countries Bulgaria, Croatia, Greece, Romania and Slovenia are the European Union (EU) member states, while the others (with different candidate statuses) aspire to become EU member states. In this context, the EU recently introduced a new, in my view unnecessary and highly problematic political region – the Western Balkans – which includes Albania, Bosnia-Herzegovina, Kosovo, Macedonia, Montenegro and Serbia. (Žagar; 2012; 247)

In addition to the listed Balkan countries, considering geographic and political definitions of the region, Southeast Europe includes Moldavia and in the opinion of some South-Caucasian countries, Armenia, Azerbaijan and Georgia. Sometimes Hungary,

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<sup>6</sup> The name of this mountain chain and consequently the peninsula derives from a Turkish expression for mountains 'Balkan'.

as well as Slovakia and even Ukraine might be included. In this context, we should mention that Hungary, Slovakia and Slovenia usually define and promote themselves as Central European countries, which is consistent with the majority of traditional geographic definitions. Slovenia, however, stresses that it is also a Mediterranean country. Albania, Croatia, Greece and Montenegro as well as the Black Sea countries also consider themselves Mediterranean countries. (Žagar; 2012; 247-248)

Probably the most problematic, when it comes to political and ideological determination and conditioning is the region (and concept) of the Western Balkans. This concept has recently emerged in the international community and is used by the EU and some international organisations.<sup>7</sup> It refers to those countries of the region which aspire to become EU member states, and which in the view of the international community need to be better integrated into it to prevent possible future problems and conflicts. However, this concept has no (other) historic roots and foundations.

An additional complication regarding these regions is their usually negative image and perception(s) in the international community and global public. This might be an important reason that Croatia, Hungary and Slovenia, that shared the region's turbulent history and established several ties with the Balkans, are trying to disassociate themselves from it.

“However, the perceptions of the region that as a natural bridge between Asia and Europe has been a historic cross-roads of peoples have not always been that bad; at some points, particularly in the period of romanticism it was considered very exotic, oriental and was idealised as the cradle of the European civilization. Consequently, Austria-Hungary was proud to define itself a Central European and Balkan Monarchy.<sup>8</sup>” (Žagar; 2012; 247-248)

<sup>7</sup> In their view, this region includes Albania, Bosnia-Herzegovina, Kosovo, Macedonia, Montenegro and Serbia. In this context, some also use the following equation:

Wester Balkans = former Yugoslavia + Albania – Slovenia – Croatia.

<sup>8</sup> More on the turbulent history of the Balkans and different interpretations thereof see in e.g., Banac (1993, © 1984); Crampton, R. & Crampton, B. (1997); Jelavich, C. & Jelavich, B. (1977); Sugar & Lederer, eds.

Present day negative perceptions of and attitudes towards the Balkans emerged in the nineteenth century when the (unpredictable and uncontrolled) fragmentation of the Ottoman Empire begun. They intensified in the twentieth century with the formulation and spreading of the concepts of Balkanisation and Balkanism (Nested Balkanisms).<sup>9</sup> Referring to fragmentation, intolerance, ethnic and religious tensions and conflicts, as well as attributing the region centuries or even millennia of hatred and warfare, these concepts tend to ignore important historical developments and facts. In different periods and environments, the region has also demonstrated a remarkable tradition of coexistence, tolerance, inclusion and cooperation between distinct ethnic, religious and/or cultural communities and groups. Different traditional modes, mechanisms and models of coexistence, tolerance and cooperation, as well as (collective) protection of minorities had emerged and evolved, particularly at the local level, before they were marginalised and/or abolished by modern bureaucratic states, particularly nation states that thus attempted to consolidate their power and eliminate potential competition. Unfortunately, states

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(1969). For different accounts see also e.g., Ninić (1989); Stavrianos ([1958]); Stoyanov (1994); etc.

<sup>9</sup> Credited to different authors (e.g., Lord Arthur James Balfour, First earl of Balfour (during WWI, possibly in 1915), James Louis Garvin (1920), while A.J. Toynbee (1922) credited it to “German Socialists” describing the results of the treaty of Brest-Litovsk, etc.), the concept and term Balkanisation refer to the historical developments in the region and the process of decay and (unpredictable) fragmentation of the Ottoman Empire in the period 1812/1875-1912 as well as the dissolution of the Austro-Hungarian Empire at the end of WWI, when a number of new states emerged in the region. Later, the term was used to describe developments in other parts of the world as well, particularly aspirations and actions of diverse secessionist and (national) liberation movements, particularly their struggle for independence (e.g., decolonisation and later on secessionist movements in Africa, secessionist movements and politics in Quebec, Canada, in the Basque Country and Catalonia in Spain, etc.). Traditionally, the majority position has been that uncontrolled and excessive fragmentation was negative and dangerous. Those negative perceptions further strengthened when ethnic cleansing and genocide in Bosnia-Herzegovina were attributed to Balkanisation. (E. g. Balkanise/Balkanisation, Dictionary.com; English Oxford Living Dictionary.) The concept and term Balkanism (Nested Balkanisms) were developed by Maria Todorova (1997) in her influential monograph *Imagining the Balkans*.

failed to replace traditional modes, methods and models of coexistence, tolerance, cooperation and minority protection by adequate new ones. A case in point might be Bosnia-Herzegovina that offered a safe haven to the Jews who fled the Inquisition, intolerance and pogroms in the West and North of Europe or were expelled from those countries.<sup>10</sup>

In contrast to the general public opinion and views of the majority of scholars that are predominantly negative and perceive the region as Europe's trouble spot, my perceptions of and attitudes towards Southeast Europe and subsequently the Balkans as its core constituent part, are more positive. Although I am aware of the turbulent history, complexity and a number of regional problems, as well as of many dangers that the future developments might bring, I can also see its positive legacies and its present and future potentials and possibilities with major implications to the future development of Europe and the global international community. All countries of the region, countries in its immediate neighbourhood, Europe (the EU and Russia included), international organisations and structures, as well as the global international community have common vital interests entailing stability, peace, democracy and sustainable development in the region. Consequently, they shall together do their best to contribute to those goals, particularly by developing the region and introducing the prospects of a better life and future to its inhabitants and peoples. To this end, they shall promote and develop mutually beneficial, firm, productive and successful links and cooperation among and with the countries of the region, regional and broader structures and frameworks. As a longer-term perspective, these countries should be ensured equal inclusion into European and global integration processes and security structures. Considering those common interests, I am shocked that Europe and the international

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<sup>10</sup> The first Jews arrived to Bosnia-Herzegovina, at that time a part of the Ottoman Empire in the late fifteenth century from Portugal and Spain, while the last wave came in the nineteenth century. They settled mostly in Sarajevo. Generally, the Jews in the Ottoman Empire were well treated, enjoyed certain autonomy and (minority) rights (including the rights to trade, buy real estate/property and build synagogues). Consequently, Jewish communities in the Empire did well, better than in the West at the time, and thus flourished.

community as a whole, particularly its main global actors, often fail to recognise the importance of their roles and contribution(s) for the peace and stability of the region, as well as for its continuous, stable and sustainable economic and social development.

“Considering strategic importance of the region and historic experiences, particularly the role that the region had during WWI and WWII, the international community shall recognise the importance of peace and stability in the Balkans for long-term peace and stability worldwide. ... [T]he best strategy that the countries in the neighbourhood, the EU and the international community shall follow is to invest, economically and politically by stimulating democratic developments in the countries of the region and regional structures, including international organisations that can contribute to the stable, peaceful and sustainable economic, social and cultural development. They shall not only develop international and national governmental assistance and investment programs, but shall also stimulate and coordinate private investment. These investment and development strategies shall take into account specific situations, conditions and interests of specific local environments, countries and the region and shall not simply be imposed from outside, following the logic and narrow interests of the investors. Consequently, such international investment and assistance programs, particularly direct foreign investments need to be open, inclusive and flexible. They shall, whenever possible stimulate cooperation and investment of local investors within countries as well as in the region, among others by stimulating and assisting development of local investment consortia and funds also by providing the necessary funding.” (Žagar; 2012; 248)

We can hope that perspectives of successful and sustainable economic and social development, based upon mutually beneficial long-term economic cooperation that considers the Balkans, South-east Europe and other less developed and marginal(ised) regions (often called the world’s periphery), as well as individual countries



in those regions, to be their equal partners, could change (usually) negative perceptions of and attitudes towards this region. Being aware of geographic, social, ecological and climate conditions, potentials and limits of specific regions, development strategies of sustainable development that promote social and economic inclusion, potentials and opportunities that attract (new domestic and foreign) investments could also contribute to the transformation of mental maps and perceptions of Europe and the world. In this context, the existing ethnic, linguistic, religious and cultural pluralism and richness, all socially relevant differences, diversities and asymmetries, rich and turbulent history as well as competing histories (historic (re)interpretations) promoted by distinct communities in the region should be presented and considered as characteristics and objective facts of those societies. They shall be promoted as relevant comparative advantages and important added value in a specific diverse environment.

Although we agree that successful, ideally also sustainable economic development, prosperity and optimistic economic expectations of the population are the necessary conditions for peace, stability and successful social development of the region, they are by no means sufficient. Economic development and prosperity are very important. However, they are just segments of successful (holistic) social development of countries and regions and, consequently, of their successful all-encompassing development strategies. A key element of such development strategies in plural and diverse environments is the creation of successful strategies of diversity management, more precisely strategies and practice(s) of the regulation and management of (all socially relevant) diversities. Realising that all contemporary societies are plural and diverse at least to a certain extent, successful diversity management is a relevant issue in all societies.

Consequently, this chapter addresses the issues of social, cultural and ethnic plurality and diversity in the regions of South-east Europe and the Balkans, multiculturalism and inter-culturalism in individual countries and the regions, as well as strategies of the regulation and management of diversities at all levels. We could hypothesise that successful diversity management at all levels (from local, subnational and national to international) is necessary for

long-term peace and stability in plural societies. Additionally, I would claim that democratisation and political stability, successful development, ethnic, minority, multicultural and intercultural policies and strategies, as well as prevention, management and/or resolution of crises and conflicts should be considered the necessary components of every effective diversity management strategy.

## **2. Ethnic and Religious Plurality, Multicultural Reality, Multiculturalism and Inter-Culturalism<sup>11</sup>**

The following chapters present a more detailed overview of the situations, strategies and policies of multiculturalism in some Balkan countries, their international context, as well as migrations in the region in the context of multiculturalism. Consequently, this section deals with the broader, particularly conceptual and theoretical framework.

As already mentioned, all countries and the Balkan region as a whole are culturally, ethnically and religiously plural and diverse, i.e. heterogeneous. These pluralities and diversities constitute their multicultural, multi-ethnic and multi-religious realities. Consequently, we can define and classify those countries and societies as multicultural, multi-ethnic and multi-religious ones. In other words, the adjectives multicultural, multi-ethnic and multi-religious simply describe the existence of such pluralities and diversities in those environments and determine their bases/criteria, types and nature. Of course, in addition to the aforementioned pluralities and diversities, other pluralities also exist in contemporary societies, such as, for example, pluralism and diversity of interests, political and party pluralism (reflected in multi-party democratic systems), property and ownership pluralism (e.g., private, public and state property, common good), etc. Consequently, cultural, ethnic and religious pluralism and diversities are just some segments and specific dimensions of social pluralism and socially relevant diversities that we need to regulate and manage adequately in order to provide long-term peace and stability in those environments.

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<sup>11</sup> See, e.g., Žagar (2006/7 – ©2008; 2007/8 – ©2010).

Should the terms multicultural and multi-ethnic societies refer to plural, diverse and usually asymmetric social realities, catchy and sometimes popular terms multiculturalism and inter-culturalism describe complex (social and political) concepts and social phenomena. Consequently, those terms and concepts (i.e., multiculturalism and inter-culturalism) can be understood as:

- political principles,
- (political) ideologies/value systems,
- approaches to, strategies, (specific) policies and measures of dealing with cultural, linguistic, ethnic and religious pluralism, collective identities and diversities in diverse societies, as well as
- theoretical concepts (theories), frameworks and models for the recognition, regulation and management of the socially relevant diversities in culturally, ethnically, religiously and otherwise plural and diverse environments, etc.

Regardless of the specific origin and development of the terms and concepts of multiculturalism and inter-culturalism, both terms are frequently used interchangeably and/or as synonyms. This might be attributed particularly to the evolution and development of the concept of multiculturalism in time. Both concepts, multiculturalism and inter-culturalism, have become important elements of ethnic, minority, migration (particularly immigration) and integration policies and strategies of certain countries and international forums. As other democratic ideologies, strategies, policies and practices based on the (principles of) voluntary, equal and full social inclusion and integration of diverse distinct communities and persons belonging to them, equality, justice and human rights, including minority rights and minority protection, multiculturalism and inter-culturalism should replace (or at least complement) ideologies, policies and practices of involuntary assimilation, segregation and exclusion.<sup>12</sup>

Multiculturalism that emerged and developed in Canada in the 1960s and 1970s refers to the principles, regulation(s) and policies in a multi-ethnic society that formally recognises and

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<sup>12</sup> For additional information see e.g., Bešter (2006).

affirms the existence of diversities and distinct communities, establishes and guarantees their (special) rights, equal status (possibly with autonomy) and adequate protection. Its central aim is to establish conditions for the coexistence and cooperation of all the distinct communities and persons belonging to them, as well as stimulate the preservation and development of their distinct cultures. Gradual evolution of multiculturalism in the following decades transformed it and took into account the (mutual) interactions and interdependence of distinct communities, minorities and majorities, very much in line with the concept of inter-culturalism and its evolution.<sup>13</sup>

In addition to the traditional contents, forms and models of the (traditional) multiculturalism that established firm rules, the mechanisms and measures for coexistence, inclusion and equal cooperation of distinct communities and persons belonging to them within an environment with the aim to protect and guarantee their preservation, specific identity and distinct development, inter-culturalism still includes new contents and goals. Inter-culturalism pays special attention to the intertwined existence of distinct communities, their common interests and activities leading to new cultural and other practices in the context of constantly evolving cultures and common existence in all other spheres in contemporary diverse societies. If the central goal of traditional multiculturalism is the preservation and coexistence of distinct cultures and collective identities, the central goal of inter-culturalism is to enable their intertwining, cooperation and active common (co) existence, being aware that in such processes distinct cultures and identities are constantly evolving and transforming, also leading to the emergence and development of new ones.<sup>14</sup>

Multiculturalism, inter-culturalism, (special) minority rights and protection, (social) inclusion, integration and diversity management have become not only public and political catchwords,

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<sup>13</sup> See, e.g., Goldberg (ed.) (1994); Gutmann (2003); Gutmann & Rockefeller & Walzer & Wolf (eds.) (1992); Kymlicka (1995; 1997; 2000; 2001; 2010); Maíz Suárez & Requejo Coll (2005); Parekh (2002); Taylor (1994; 1994a); Yurdakulçe & Bodemann (eds.) (2007); Taylor (1994; 1994a); etc.

<sup>14</sup> See, e.g., Antonsich (2015); Barret (ed.) (2013); Bouchard (2011); Meer & Modood (2012); Modood. (2014); Parekh (2002); etc.

particularly among liberals, progressive scholars and social activists, as well as diverse minorities and persons belonging to them, but also, at least partially, official policies in some countries and environments. (Certain segments and elements of multiculturalism and inter-culturalism can be found in political declarations, political and legal documents, and practices of some countries, such as, e.g., Canada, Australia, the UK, some Balkan countries, etc.). Additionally, the EU and some international organisations (e.g., Council of Europe, UN) also support and promote these concepts and policies, paying special attention to the recognition, regulation and management of the socially relevant diversities, simultaneously stressing the importance of awareness raising and public recognition in this context. Public recognition and acceptance of the socially relevant diversities as the basis for successful regulation and management of those pluralities, diversities and asymmetries, can be considered important preconditions for a peaceful and stable development of diverse societies.

Unfortunately, these proclamations, slogans and policies often fail to be implemented and realised in practice, while the results of the adopted specific measures and (programs of) action(s) might not meet the optimistic expectations. However, we could not deny some important achievements. The evolution and transformation of multiculturalism and multicultural policies in Canada, where the idea and concept of multiculturalism had been shaped and translated into an official policy that has evolved and contributed to the evolution and transformation of the Canadian society. In this context, we could particularly mention the evolution and transformation of the perceptions in the Canadian society, its multicultural makeup and nature. Although defined as an immigrant society, the main perception of Canada was that of a predominantly bi-communal country, focusing on the existence of and divisions between the Anglophone and Francophone communities. These divisions continue to exist and still dominate Canadian politics. However, they are just a small part of the pluralities and diversities that now exist in Canada, a truly multicultural society of traditional communities and immigrants coming from all over the world. Such diverse, multi-ethnic and multicultural reality dominates particularly in metropolitan areas of the Canadian cities, but

diversities continue to grow and develop in different urban and rural environments. Canadian multicultural policy has been instrumental in (co)existence, preservation and development of cultures as well as full integration of all – majority and minority – distinct communities and persons belonging to them: the Anglophone and Francophone communities, the First Nations (indigenous peoples and persons belonging to them) as well as immigrants and their communities.<sup>15</sup>

In Europe, several countries have introduced some elements of multiculturalism and/or inter-culturalism in their cultural, ethnic, minority, (im)migration and integration policies and strategies, although some countries still fail to recognise and protect the existence of ethnic minorities within their territory. In this context, we shall mention the Council of Europe that has played a central role in the development of the European standards for the protection of (traditional) national minorities. Particularly important was the development and adoption of the Framework Convention for the Protection of National Minorities (ETS No.157 – 1995), the most comprehensive international treaty on the protection of the rights of persons belonging to national minorities, and European Charter for Regional or Minority Languages (ETS No.148 – 1992). Simultaneously, though quite slowly, the standards of the protection of immigrants (especially (im)migrant workers) have started to be developed. The progress in the development of the protection of minorities and migrants has further slowed down after 9/11, upon proclamations of the authorities in many countries that limitations of certain human rights, including the rights of persons belonging to minority and immigrant populations, would be necessary to ensure and improve security. This trade off, i.e. restrictions in human rights in order to improve security, proved to be false and ineffective. The limitations of human rights did not eliminate security risks and terrorism. However, the fear of the other, unknown and different, particularly immigrants potentially associated with terrorism, has increased. Nationalist and right-wing politicians and media foster and incite fears that the increasing

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<sup>15</sup> See, e.g., Gutmann & Rockefeller & Walzer & Wolf (eds.) (1992); Taylor (1994); Temelini (1999); Yurdakulççe & Bodemann (eds.) (2007); etc.

migration(s) and the growing number of immigrants, culturally, ethnically and religiously different from the traditional populations, might endanger a specific culture, nature and identity of host societies. To hide their xenophobic nature, such discourses often focus on the absorption capacities of host societies and advocate restrictive migration policies and management of migrations that limit immigration, possibly by stating quotas that determine the maximum number and characteristics (e.g., education, skills, in some cases also value systems and culture) of acceptable immigrants. Additionally, they request the termination of illegal migration(s). In many environments, we can detect growing intolerance and xenophobia directed not only towards immigrants and their communities, but also towards other distinct communities, minorities and their members.<sup>16</sup> Simultaneously, we witness the strengthening of political extremism, particularly populism, nationalism and extreme rightist ideology. In such conditions, it has become increasingly difficult to build sufficiently broad social consensus needed for the development and the improvement of human and minority rights' standards, particularly when it comes to the rights and protection of immigrants. Such attitudes might seem illogical, considering that demographic studies and projections demonstrate that European countries, particularly the developed ones, need immigration and active migration policies that will ensure the necessary number of immigrants needed to preserve their current standard of living and ensure sustainability of their economies, welfare state and societies. Consequently, these countries should do their best to develop and execute effective and successful inclusion and integration strategies and policies that would facilitate social inclusion and integration of immigrants, utilisation and development of their potentials and skills, thereby increasing their contribution to the wellbeing and development of the host societies.

Regardless of the different attitudes, strategies and policies regarding migration, inclusion and integration, multiculturalism

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<sup>16</sup> In addition to discrimination against and hatred for immigrants and their communities, the most frequent targets of discrimination, intolerance and xenophobia in Europe are the Roma and their communities, as well as other marginalised groups, such as, for example, homosexuals.

and inter-culturalism, including the differences in their implementation, cultural, ethnic and religious pluralities and diversities in European countries continue to increase, particularly due to the continuous migration and movement of people. Consequently, we could hope that these countries will pay adequate attention to the inclusion and integration of all distinct communities and immigrants, as well as to the development and execution of successful strategies, policies and practice in regulating and managing diversity, of which instrumental segments are inclusion and integration policies, as well as minority, migration, multicultural and inter-cultural policies. It would be in the best interest of European and other developed countries that the standards for the protection of immigrants would reach at least the level of the current standards for the protection of national minorities. However, I would hope that minority rights and protection would evolve to include not only individual rights of the persons belonging to diverse minorities but also collective rights of those minority communities.

The key element of multiculturalism, inter-culturalism and integration (policies), as well as successful regulation and management of socially relevant diversities, is the social inclusion of all individuals, including (im)migrants and all distinct communities and groups based on the principles of non-discrimination, justice and equality, and on human rights and freedoms. This also requires the evolution and transformation of (im)migration and integration policies and integration models. The practice of integrating immigrants only into the labour market as 'temporary guest workers', and consequently into social security and pension systems, used in certain countries (e.g., the FR Germany) proved insufficient, although it ensured the basis for their social and pension security. Expectations of guest countries that "temporary guest workers' would soon return to the countries of their origin proved to be wrong as many of these immigrants, their families and children (the second and the following generations of immigrants) decided to stay. Their integration into the host societies, however, was often not a simple and very successful process. Consequently, the host countries and their governments had to re-examine their immigration and integration policies and strategies. Different countries opted for different concepts, strategies



and policies which ranged from open discrimination, exclusion and segregation of immigrants, their (involuntary/forced) assimilation, now considered a violation of human rights and unacceptable by democratic standards, down to voluntary assimilation of immigrants and nowadays preferred options of full, equal and voluntary inclusion and integration based on the policies of multiculturalism and inter-culturalism. Full, equal and voluntary social inclusion and integration of immigrants requires a holistic approach to inclusion and integration policies that address all (public and private) spheres of individual's and social life.

In any case, considering the Balkans and Balkan states, we may conclude that all cases and all environments demonstrate a certain, usually substantial gap between the legal, political and official documents and proclamations on the one side, and their actual implementation and social reality in those environments on the other. Although all countries of the region proclaim and officially declare that they are diverse and multicultural, and that they practice multiculturalism and/or inter-culturalism, reality is rather different, usually less optimistic. In this context, we could conclude that scholars, politicians, social activists and public, particularly persons belonging to minorities and distinct communities evaluate multiculturalism and inter-culturalism positively. However, there are some justified criticisms of the specific models, strategies, policies and practices of multiculturalism and inter-culturalism, particularly when they are misused in the context of ethno-politics to promote divisions, marginalisation and/or segregation in their respective diverse environments.

### **3. Regulation and management of diversities and (single) nation-states**

As mentioned, multiculturalism and inter-culturalism, inclusion, integration, ethnic, minority and migration strategies, legislation, policies, models and practices are the key ingredients, segments and dimensions of successful and effective diversity management. This indicates the complexity of diversity management or, more precisely, the regulation and management of the

socially relevant diversities in complex and diverse contemporary societies. Simultaneously, I would like to stress the short- and long-term relevance of the adequate regulation and successful management of the socially relevant diversities for peace, stability and sustainable social development in diverse environments.

As it is usually the case with complex concepts and social phenomena, there is no simple and universally accepted definition of diversity management – the regulation and management of the socially relevant diversities and asymmetries. Rather, we can find a number of definitions in scholarly literature, political documents and public discourse that differ in some or several characteristics depending on specific approaches, aims and interests of their respective authors and users. In my research, I am using the following working definition developed for my research projects a few years ago<sup>17</sup> that has constantly been evolving in the process:

“... [W]e could describe diversity management as a set of strategies, policies, concepts and approaches, programmes, measures and activities that should ensure equality, equal possibilities, participation and inclusion in all spheres of social, economic and political life (both public and private life) for all individuals and communities within a society, especially for immigrants, persons belonging to national and other minorities, marginalised individuals, minorities and other distinct communities. This should be done in a way that would enable the preservation, coexistence and development of their specific characteristics, cultures and identities, but also their interaction, cooperation, transformation and development of new cultures and identities. Consequently, measures, programmes and activities should be developed and carried out that, on the one hand, prevent social exclusion, negative stereotyping, discrimination, racism and xenophobia and similar negative phenomena, and, on the other hand, stimulate and promote tolerance and equal cooperation and inclusion, intercultural education

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<sup>17</sup> The initial research findings and first concepts were presented in Žagar (2007).

and better knowledge of existing diversities, voluntary integration based on the recognition and respect of diversities and distinct identities, economic and social development, etc. Speaking specifically of integration measures, programmes and activities for immigrants, which was the initial focus of integration policies, should include assistance immediately upon their arrival in the host country, training and teaching of official languages and other languages, the provision of information relevant for immigrants, as well as training and educational programmes that can assist their integration and promote their belonging in the receiving society.<sup>18</sup> (Žagar; 2006/7 – ©2008; 320–321)

However, inclusion and integration policies, measures, programs and activities should not focus only on immigrants. They should respond to the situations, needs and interests of all individuals and distinct communities and groups, particularly marginalised and minority ones that are or feel excluded and that express their will to be included and integrated into society, based on the principles of equal rights, equality, justice and solidarity. Consequently, the main goal of those policies, measures, programs and activities is full, equal and voluntary inclusion and integration of all individuals, distinct communities and groups into diverse societies.

“Taking into account that conflicts are normal phenomena in every plural environment, successful diversity management and integration policies demand the establishment and development of functional mechanisms and institutions for prevention, management and resolution of crises and conflicts. ... So defined, diversity management might be presented as the broadest framework and concept (that includes necessary strategies, policies, measures, programmes and activities) for the regulation and management of countless pluralities, diversities and asymmetries in contemporary societies. ... [D]iversity management needs to pay special attention to ethnic and cultural pluralism and

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<sup>18</sup> See, for example, Bešter (2006; 71).

relations, protection of minorities, prevention, management and/or resolution of crisis and conflict (especially of those crises and conflicts perceived and interpreted as ethnic ones).” (Žagar; 2006/7 – ©2008; 321)

Reflecting scholarly and political debates on multiculturalism and inter-culturalism, diversity management – the regulation and management of the socially relevant diversities and asymmetries – was developed as a response to the need to construct a concept and tool

“...that would enable modern societies to regulate and manage all diversities and asymmetries that exist in them. In a search for an adequate name, the phrase ‘diversity management’ was introduced, which soon became popular and started to be used as a catch phrase. As is often the case, the name and concept(s) were borrowed from different sources, disciplines and fields... In discussing the management of diversities, we should be aware that, in addition to plurality and diversity of diversities and asymmetries within every contemporary society, there are substantial differences among individual societies, which constitute additional dimensions of diversities and complicate their management... [F]or successful management of diversities one should take into account also the whole, global picture with all its dimensions and relevant (social) contexts. In other words, effective diversity management should provide a normative and actual framework in which all different existing and possible socially relevant diversities and asymmetries could be detected, expressed and recognised, but also taken into account in social and political processes when participating actors desire so and express their interests. In this process, the conditions, needs, interests, rights (including duties) and actions of every possible and detectable actor (mostly diverse collective entities with their formal or informal forms of organisation, but also individuals) should be taken into account and the existing system with its institutions should provide a

formal and institutional framework for the permanent coordination, harmonisation and realisation of diverse interests and for the formulation of (harmonised) common interests. Consequently, diversity management is a useful tool for the creation, promotion and strengthening of social cohesion in diverse societies, based on recognition and respect for existing and possible diversities—taking into account that societies (as well as all their components), rather than being static and permanent categories, are processes with their temporal dimension in constant evolution and transformation. In this context, diversity management should provide for democratic expression, reconciliation and coordination of all detected and expressed interests and for the formulation of common interests—shared by all or almost all members of a society—that are the long-term basis for internal cohesion and the stable existence and development of diverse societies. If such shared common interests do not exist and do not bind together and lead collective actions of diverse collective entities and individuals, the consequence might be a deficit in the necessary social cohesion, which might lead to the escalation of tensions, crises and conflicts, especially in cases when certain collective entities—most frequently, distinct communities and individuals—feel exploited and/or discriminated against. We should, therefore, consider the adequate protection of all existing minorities and distinct communities, based on minority rights and their established standards, to be necessary elements of diversity management in contemporary societies. An additional necessary component and precondition of successful diversity management is successful (social) integration, as presented above.” (Žagar; 2006/7 – ©2008; 321-322)

Although this monograph focuses on cultural and ethnic diversity in the Western Balkan countries and pays special attention to ethnic minorities, traditional national and other ethnic minorities, including new ones such as immigrant communities, we should not forget that they represent just one segment and certain

dimensions of the diversities in contemporary societies. Moreover, ethnic minorities represent just a share of numerous social minorities that coexist in every plural environment, determined upon specific characteristics such as gender, social status, culture, religion etc. that serve as the determinant of their collective identities. Being plural, diverse and asymmetric, complex and structured, contemporary societies could be observed as interactions and coalitions of diverse minorities that, in different contexts and in a certain environment, form majorities. Additionally, both, minorities and majorities are internally plural, diverse and heterogeneous. Consequently, successful diversity management should consider the whole range of contexts and relations that exist in a certain society. In addition to majority-majority, majority-minority and minority-minority relations, attention shall be paid also to internal composition and relations within specific majorities and minorities.

“Considering that diversities, asymmetries, the existence of diverse and sometimes conflicting interests, and consequently possibilities for escalation of conflicts, are normal phenomena in all plural societies, necessary components of diversity management should be also strategies and mechanisms for the prevention of escalation of crises and conflicts and for their management and/or resolution in cases when preventive strategies, mechanisms and measures do not succeed in preventing their escalation. Consequently, every strategy of diversity management should include also strategies, policies, measures and activities that can be applied in post-conflict situations and societies—paying special attention to rebuilding and developing the economy and infrastructure, rehabilitation of damaged and destroyed social networks and relations, promotion of human rights (including minority protection), democratisation, restoration of trust and conditions for coexistence, but especially to the permanent elaboration, formulation and development of common interests as the basis for equal cooperation in a plural environment. Usually in such circumstances, these elements of the strategy might prove more productive and

successful for the rehabilitation of diverse societies than concepts of punitive justice and reconciliation that do not focus on the formulation and development of common interests.” (Žagar; 2006/7 – ©2008; 322-323)

In any case, states with their institutions are key actors of successful diversity management, responsible for developing, regulating and managing its normative framework, structures and institutions and processes, as well as determining and realising its principles, goals, strategies, policies and measures. From the perspective of ethnic, cultural and religious diversities which occur in contemporary societies and need to be regulated and managed, states are responsible for the development and execution of adequate ethnic, minority, inclusion and integration ideologies, strategies, legislation and policies that are the crucial elements of every successful regulation and management of those socially relevant diversities. In this context, ideologies, strategies and policies of multiculturalism and inter-culturalism are possible, at present desirable approaches and key tools that states could use.

However, the prevailing contemporary concept and model of states as types of social organisations – (single) nation states – might be a problem in this context. States that in their historical evolution in the past three or four centuries started to develop and acquired their ethnic dimension and identity that determined them as states of the dominant titular (ethnic) nations with their official languages, histories, symbols, identities... In this context, nation-states are perceived tools for the realisation of the national interests of titular nations that, ideally, should be ethnically and otherwise homogenous and unified. Such a concept and ideology of (single) nation states, particularly perceptions and desires that states should be ethnically, culturally, religiously and otherwise homogenous, however, contradict plural, diverse and asymmetric reality of contemporary societies. Still, nation states, more precisely their institutions of power, certain politicians, elites and particularly nationalists within titular nations with their ideologies and policies, often consider the existing diversity, others that do not belong to the titular nation and particularly minorities, to create

problems or, at least, obstacles to the effective functioning of the respective states. Even when states (pro)claim officially that they are civic and ethnically neutral, state policy and practice often reflect contradictory views, ideologies and policies. In such circumstances, others that do not belong to the titular nation in the respective state, particularly (social) minorities, can feel excluded and marginalised, and possibly discriminated against. For them, interested in their voluntary, equal and full (social) inclusion and integration, the existing nation states might seem to be a problem rather than a solution. Addressing their fears, one could expect that states would embrace and utilise ideologies, strategies and policies of multiculturalism and inter-culturalism. However, perceived as opposing to the presented traditional concept and ideology of single nation-state, multiculturalism and inter-culturalism are frequently not applied in practice even when states officially proclaim them as their strategies and policies in dealing with cultural and ethnic diversity.

Considering the conceptual issues addressed in this chapter, as well as the normative frameworks and situations in individual countries in the region presented in the following chapters, we could conclude that successful diversity management at all levels is necessary for the long-term peace and stability, and successful functioning of democracy in plural societies. Consequently, adequate strategies and policies of diversity management need to be developed, coordinated and executed harmoniously at all levels. In this context, successful diversity management requires formal and actual recognition and acceptance of all socially relevant diversities, including cultural, ethnic and religious ones. Additionally, necessary are the effective regulation and management of those diversities that shall include strategies and policies of inclusion, integration, ethnic, minority, (im)migration, multiculturalism and inter-culturalism, as well as mechanisms that can address potential problems, crises and conflicts. We could hope that the countries of the region will recognise the need to develop such strategies (at the national and subnational levels, namely local, regional and national ones) and decide to cooperate in developing and executing the regional strategy of diversity management.



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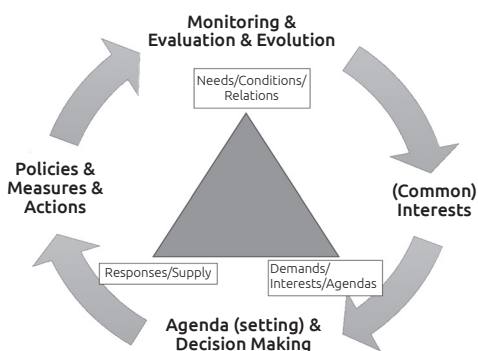
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## ANNEX I:

### TRIANGULATION – TRIANGULAR APPROACH: Needs – Demands – Responses Scheme



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**Ružica Jakešević, PhD**

Faculty of Political Science, University of Zagreb

**Siniša Tatalović, PhD**

Faculty of Political Science, University of Zagreb

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# Security Policies, Practices and Narratives on Migration in the Countries on the Balkan Route<sup>1</sup>

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## Abstract

Some of the recent and current practices and narratives in the European security environment point to the very strong trend of securitization and in some instances the most appropriate term would be 'criminalisation' of migration and migrants. Such trends were exacerbated by the mass movement of forced migrants mostly from the Middle East towards Europe, which was termed as the 'European migration crisis of 2015/2016'. This crisis gave impetus to some negative developments at domestic, bilateral and European level, since there is still a lack of consensus between EU member states and European countries generally on the appropriate migration policies and on the nature of the current migration towards Europe. Such trends can be observed in different countries which make up the so-called Balkan Route, which stretches through the territory of six countries between Turkey and Austria/Germany. The mass inflow of migrants through this route was almost completely stopped in March 2016 after the EU-Turkey deal had been achieved. However, due to the rising tensions between the EU, especially some member states such as the Netherlands and Germany, and Turkey, there is an increasing concern that this route might be re-opened. This has motivated some changes in different countries which point out to increasingly security-oriented approach to migration, with the strong emphasis on

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<sup>1</sup> Parts of this paper were prepared and presented at the 22<sup>nd</sup> Annual ASN World Convention, Harriman Institute at Columbia University, New York City, May 4-6 2017.

prevention, effective border controls, push-backs, restrictive asylum policies and militarisation of usual police functions.

*Keywords:* migration, securitisation, European migration crisis, Balkan Route countries, security policy

## Introduction

■ In different contexts, migration is increasingly being assessed in the light of the so-called 'new', 'non-military' security challenges/ threats, and as such has been used by securitising actors in different countries for achieving their political goals. Increased migration towards the European Union and its impacts on relations between the individual member states show that it is necessary to harmonise their interests and transform common migration and asylum policies as soon as possible. Different policies of the EU member states during the recent migration crisis of 2015/2016, when hundreds of thousands of people from the refugee camps in Turkey started to move towards the Western Europe, have led to serious problems in the management of migrations on the territory of Europe and their utilisation for domestic policy purposes. The whole system, which did not envisage any mechanisms for mass migration and large influx of people over a short period of time (except the 2001 Directive on Temporary Protection), with the Dublin Regulation assigning particular roles to the states at the external borders, completely crushed down with the opening of the Balkan Route, since the EU and national institutions of particular states were unable to come up with commonly acceptable solutions. In the wake of the migration crisis' peak, in April 2016 European Commission adopted a communication starting the process of the Common European Asylum System (CEAS) reform, having realised that the current framework proved to be unsustainable, since the member states used different national approaches which they considered appropriate for such a massive influx of non-EU nationals.

Although the general assessment is that migration crisis was not securitised at the EU level during 2015/2016, despite the clash between the sovereign right of each country to control its borders,

and equally strong commitment to providing humanitarian assistance for people in need of international protection and adhering to the EU laws (Jakešević & Tatalović; 2016), there are some increasingly present practices and narratives that indicate potential change of the approach in the case of another mass arrival of migrants. In spite of this general assessment, one could observe strong anti-immigrant narratives and policies in some European countries, which showed their reluctance to agree to the EU quota system. The most notable example here is Hungary, together with other states of the Visegrad group (Slovakia, Poland and Czech Republic), which completely sealed its borders with Serbia and Croatia. At the same time, we are witnessing the suspension of the Schengen rules, which embodied one of the basic values of the EU (freedom of movement).

In defining their approaches and procedures during the migration crisis of 2015/2016, most of the countries along the Balkan Route were led by the judgment that they will provide only “humanitarian corridor” and that the migrants do not want to remain permanently on their territory. The states on the Balkan Route were only “secondary” actors in dealing with the refugee crisis, since their actions very much depended on the actions by the Western European countries willing to accept people in need of international protection, which subsequently required the abandonment of the previously set rules for entering the EU territory. “EU member states on the Western Balkans migration route had no choice (unless they wanted to take Hungary as a role model) but to create a corridor (...) Insisting on regular procedures in such irregular circumstances would have overwhelmed the system” (Kukavica & Plesničar; 2016).

In such circumstances and in the context of the present fear of becoming a hot-spot, the countries on the Balkan Route are very likely to follow the previously mentioned patterns of strengthening their borders. Therefore, the aim of this paper is to explore the changes in security policies, practices and competences of individual institutions within these countries, which occurred during 2016/2017 and which in turn imply the strengthening of securitisation approach. Another aim of this paper is to determine why securitisation has occurred in some countries during the migration

crisis, while in others humanitarian approach prevailed. The main hypothesis is that the countries on the Balkan Route predominantly promoted humanitarian approach due to the fact that they were only transit countries and not the final destination for the migrants – i.e., that the states that are situated at the border with the non-integrated part of Europe and at the Schengen borders emphasised security aspects of migration because of their specific position within the EU (external borders).

The paper provides a brief analysis of the position and response of five states (Greece, Macedonia, Serbia, Hungary and Slovenia)<sup>2</sup> on the Balkan Route to the recent migration crisis, as well as the changes in their legislations and practices after the crisis subsided. Security implications which we analyse in this paper are understood in terms of the policies which emerged as the consequence of the migration crisis and which reflect the fact that migration is increasingly being criminalised and categorised as a security threat. The theoretical concept applied is the securitisation theory, as one of the most prominent contemporary frameworks, introduced by the Copenhagen school of security studies,<sup>3</sup> explaining the way in which certain issues appear on the agenda of security policies and practices. Unlike this approach to securitisation, which rests upon the crucial role of the speech acts of strong securitising actors, there is also a sociological approach to securitisation which “privileges the role of practices over that of discourses” (Léonard; 2010; 233; Balzacq; 2010) in the process of securitisation. Therefore, authors will apply both approaches to securitisation: the one with emphasis on the role of the speech

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<sup>2</sup> Although Croatia is situated on the Balkan Route, it is only marginally included in the analysis since authors of this paper have already published two analyses of the Croatian position and response to the European migration crisis, and its effects on its security policy. These are: Jakešević, R. & Tatalović, S. (2016) Securitization (and de-securitization) of the European Refugee Crisis: Croatia in the Regional Context. *Teorija in praksa*, Vol. 53. no. 5: 1246-1262; Jakešević, R. (2017) Migration and Security Policy of the Republic of Croatia. In: Bobić, Mirjana & Janković, Stefan (eds.). *Towards Understanding of Contemporary Migration - Causes, Consequences, Policies, Reflections*. Belgrade: Institute for Sociological Research, Faculty of Philosophy, University of Belgrade. pp. 177-196.

<sup>3</sup> Whose main representatives are Barry Buzan, Ole Wæver and Jaap de Wilde.



acts, and the other which concentrates on certain practices in six different countries on the route.

The analysis is organised as a comparative study which analyses a number of categories in the context of each country on the route. These categories include: membership to the EU; the way in which migration is perceived and addressed in the national security strategic documents; the role of the armed forces in the recent migration crisis; freedom of movement of migrants/organised transfer; refugee camps and number of refugees; discourse analysis – security vs. humanitarian aspects (leading political figures); changes in the legislation after the peak of the crisis.

These categories enable us to set up a number of indicators which will point to the level of securitisation: the type of narrative and speech acts; status of the border; existence of border fences; militarisation of the border line; detention of migrants; new legislative measures and envisaged practices.

## **Membership to the EU**

The Balkan Route stretches from Turkey and Greece, across the Western Balkan states of Macedonia and Serbia, where it forks in two directions. The dominant direction of movement of migrants until September 2015 was across the Serbian-Hungarian border. After the Hungarian authorities managed to implement their strict measures of building strong physical barriers, with additional presence of military forces at the external EU border with Serbia, the movement was diverted towards Croatia and further to Slovenia and Austria.

Thus, the Balkan Route encompasses six countries: Greece, Macedonia, Serbia, Croatia, Slovenia and Hungary. What characterised relations between these countries (except Hungary) prior to the migration crisis was the existence of bilateral disputes which range from identity issues (dispute between Greece and Macedonia over the very name of Macedonia, which has been affecting the relations of the later with the EU and NATO), minority issues (Serbian-Croatian relations), dealing with the consequences of recent conflicts (Croatia and Serbia) to border disputes (Croatia-Slovenia; Croatia-Serbia). In

the light of the rising political tensions caused by the migration crisis, whereby each of the countries on the route accused the neighbouring country for the mismanagement of migration flow and disregard for their obligations in terms of effective border control and registration of migrants, these bilateral disputes only added to the rising tensions, thus creating the atmosphere of extraordinary circumstances. Such an atmosphere has affected relations between various actors on domestic level in these countries, as well as their bilateral relations.

The Balkan Route is very diverse in terms of relations that each of the countries has with one of the main institutions within the European security architecture – namely the EU. Turkey, as the starting point of the Balkan Route has the most complicated status regarding the membership to the EU. In the late 1980s Turkey applied for the EU membership, yet it was not until 1999 that it managed to receive the candidate status. Additional six years went by until it started the negotiation process (2005), which is currently at its most critical point, since the European Parliament issued a resolution in November 2016, urging for the suspension of the negotiation process, due to “serious and persistent breach in Turkey of the principles of liberty, democracy, respect for human rights...” (European Parliament; 2016). Although not legally binding, this resolution points to the fragile relations between the EU and Turkey, the two actors which set the dynamics regarding the issue of migration towards Europe and upon which depends the possible re-opening of the Balkan Route.

Greece is an EU member state, also being a member of the Schengen zone. It shares the land and sea border with Turkey, with which it also shares the membership to NATO, and the land border with three additional states, one of which is an EU member state, but not a part of the Schengen zone – Bulgaria. These facts which stem from its geopolitical position, as well as its very fragmented coastline, make this country’s position highly challenging. Macedonia and Serbia are both EU candidate countries – Macedonia since 2005 and Serbia as of 2012. Although it received this status more than a decade ago, Macedonia still has not started the negotiations, due to its dispute with Greece, while Serbia started its negotiation process in 2013.

Both Hungary and Slovenia became members of the EU in 2004, during the largest single enlargement, and both have been members of the Schengen zone since 2007. Southern and eastern borders of these two countries constituted the external EU border - in the case of Hungary these were its borders with Romania (until 2007), Croatia (until 2013) and currently only its borders with Serbia and Ukraine; in the case of Slovenia, it was its border with Croatia until 2013. Despite the Romanian accession in 2007 and Croatian accession to the EU in 2013, Hungarian and Slovenian borders divide Schengen from non-Schengen zone, since neither Romania nor Croatia belong to the Schengen area.

In terms of the recent migration crisis, all the above-mentioned meant that migrants first entered the Schengen zone at the Turkish-Greek border, then left the Schengen zone and the EU at the Greek-Macedonian border, in order to try and enter either the EU (but not Schengen) at the Serbian-Croatian border, or both the EU and Schengen zone at the Serbian-Hungarian border. Such a diverse status of countries on the route regarding their relations with the EU has made the situation and the relations between them even more complicated in terms of the available mechanisms and tools with which they tried to respond to the migration crisis.

## **Migration and the National Security Strategic Documents**

National security policy frameworks in the countries on the route vary considerably in the way in which each of them perceives migration – from superficial and brief assessments to much elaborated attitudes which served as the starting point for legislative measures and migration policies.

The position of Greece in terms of contemporary migration flows towards the EU is quite specific since the country presents the main gateway towards Europe for the asylum seekers from Asia and Africa. Its geopolitical position is affirmed as such in its strategic national security documents, which tackle migration only at the level of some general remarks, situating migration in the group with other 'non-military' security threats, and pointing out

that due to the “reasons of geography and economic affluence, Greece will be strongly affected by those trends” (Dokos; 2009; 3).

In the case of Macedonia, there is a brief mention of (illegal) migration as a security issue in the Macedonian national security strategic documents (White Paper on Defence; 2011; 17), while the legislative framework for tackling migration is extremely limited.

National Security Strategy of Serbia describes (illegal) migration as one of non-military threats that “threaten the stability of individual countries and whole regions and also global security. The essential feature of these challenges, risks and threats is that they become more unpredictable, asymmetric and have a transnational character” (National Security Strategy of the Republic of Serbia; 2009; 4). Further in the document (illegal) migration is put in the broader context of organised crime, and the security implications of internal migration are also emphasised: “Demographic trends and migrations, in addition to social problems and the growth of crime, can lead to increased instability and the emergence of risks and threats to the security of the Republic of Serbia” (National security strategy; 2009; 12). The document places great emphasis on regional cooperation and European standards in overcoming the problem of illegal migration. One can observe that each time the word migration is mentioned throughout the document, it is always accompanied with the word “illegal”. There is a number of other documents and laws which concerning the issue of migration. Some of these documents were made in cooperation with international organisations and their aim was to help Serbia in coping with this issue more easily. One such document was the outcome of the Serbian cooperation with the IOM on the project “Capacity Building of Institutions Involved in Migration Management and Reintegration of Returnees in the Republic of Serbia”. The document states that “despite the existing efforts of the state to regulate migration flows, the Republic of Serbia is still lacking a clear policy of an integrated approach to this phenomenon” (Fundamentals of the Migration Management of the Republic of Serbia, 2011: 7).

Hungary is increasingly being described as ‘illiberal democracy’ (Zakaria; 1997; Buzogány; 2017) governed by the right-wing conservative and populist political party Fidesz and its leader Viktor

Orban. Its 2012 National Security Strategy tackles migration quite extensively, analysing the migration phenomena in the context of it being the potential threat to the country's security, following a potential future scenario in which Hungary is expected to become the 'target' of 'illegal migrants', but also legal ones. The Strategy states that "Migration is treated as a natural and at the same time complex phenomenon, bringing economic and demographic advantages and, at the same time, carrying public and national security risks" (Hungarian National Security Strategy; 2012; 17).

The first Croatian National Security Strategy (2002) states that 'illegal' migration presents a "significant security risk" (National Security Strategy; 2002; 5). The Strategy defines illegal migration as asymmetric security challenge which must be tackled through closer international cooperation between various law enforcement agencies. It also confirms the perception of Croatian territory as the transit corridor exploited by different groups engaged in organised crime activities. New National Security Strategy was adopted by the Croatian Parliament in 2017, and it shows the influence of the European migration crisis on the way in which states conceptualise different issues as security challenges. If one compares the 2002 and 2017 strategies, it can be observed that the word 'migration' is quite more frequently used in the later document (4 vs. 19 times), while "illegal migration" is still described as a national (and European) security challenge (National security strategy; 2017; 3).

Slovenian National Security Strategy analyses migration in the context of climate change, regional instability, organised crime and terrorism. Additionally, it specifies that: "Illegal migration affects the Republic of Slovenia primarily on account of the migration routes running across its territory. The accession of the Republic of Slovenia to the Schengen area (...) brought changes in illegal migration routes and their structure. (...) there has been a growing number of third country nationals who cross internal borders illegally (...), whereas the Republic of Slovenia has been a target country for the illegal migrants (...) only to a smaller degree. Such a security threat is given further significance on account of its connection to organised crime and terrorism. (...) A greater scope of illegal migration may, in the future, pose a general threat to the

security and health of Slovenian nationals” (National Security Strategy; 2010; 16). Such an explicit securitisation of migration in the key strategic documents can be compared only to the contextualisation of migration in the Hungarian National Security Strategy.

## The type of response to the recent migration crisis

According to the IOM (in Katsiaficas; 2014), in 2011 around 90% of all irregular entries into Europe were made through Greece. It has not been a typical destination country during the recent migration crisis and migrants mostly perceived it as a country of transit. Nevertheless, there are more asylum applications in Greece than in the other countries on the Balkan Route (except Hungary).

During 2014, the dominant approach towards undocumented migrants included the practices of prevention/push-backs, detention/arrests and strong border controls. According to the UNHCR, in 2014 Greek police had arrested 45,500 migrants and asylum seekers. With the political situation changing in February 2015, when the new coalition (Syriza and Independent Greeks) government led by Prime Minister Alexis Tsipras came to power, there has been a significant shift in more than two decades long (securitised) migration policy. Besides stronger calls for the European solidarity, new course of migration policy included shutting down detention centres (where migrants were denied the right to freedom of movement for the period of 18 months), shifting the focus from detention, deportation and border controls towards effective migrant protection.<sup>4</sup> According to this new orientation, detention centres should serve as an exceptional measure, not a rule (Katsiaficas; 2015).

Putting this new direction into a wider perspective, it is possible to observe that the Greek position on migration has been shifting back and forth between securitisation and de-securitisation during the last three decades. As Karyotis and Patrikios observe in their study on the role of the political elites and the Greek Orthodox Church in the securitisation of migration: “Official discourse

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<sup>4</sup> Nallu, Preethi, Greece outlines radical immigration reform (5 March 2015). Accessible at: [www.aljazeera.com](http://www.aljazeera.com) (10 March 2017).

concerning migration in Greece became highly securitised in the early 1990s. Discourse analysis reveals a strong offensive language towards immigrants, which served as the main legitimising factor for restrictive policy responses” (Karyotis & Patrikios; 2010; 46). In subsequent periods, migration was again constructed/de-constructed as a security threat, depending on the immediate pragmatic political needs. Current political elites have strongly pushed for the reform of the Dublin Regulation, which was very unfavourable for Greece, even prior to the emergence of the recent migration crisis. General assessment is that “SYRIZA will likely need to get support from other parties for its immigration reform agenda. Immigration is a highly politicised issue, especially in the context of the prolonged recession, and obstacles remain to the implementation of such measures at both the national and EU level” (Katsiaficas; 2015; 3).

Greece is increasingly being described/imposed the role of “defender of the Fortress Europe, with some of the harshest laws on asylum and criminalisation of migration” (Calotychos; 2011; 162). At the same time, the rest of the EU countries and EU institutions have seemed to be ignoring the situation in Greece (and Italy) for quite some time, which conversely called for solidarity and equal burden-sharing, especially after the Balkan Route had been closed in March 2016. The EU-Turkey deal has resulted in thousands of migrants being ‘trapped’ in Greece, while the situation is especially severe on the border with Macedonia, in the Idomeni refugee camp. Therefore, the EU relocation scheme was aimed at ensuring burden sharing among member states, to which the Visegrad group countries oppose. Just before the emergency EU summit in March 2016, the Greek Prime Minister A. Tsipras stated that “with the border closed to refugees and flows to the islands continuing, it is clear that relocation to other countries is urgent and must start immediately in high numbers”.<sup>5</sup>

When the first groups of migrants started to arrive to its borders, Macedonian authorities did not display any serious concerns because migrants wanted to cross their territory as soon as possible and reach the border with Serbia. Having such a perception

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<sup>5</sup> Europe migrant crisis: Greece says ‘fortress Europe’ needs to share burden. Accessible at: <http://www.mobile.abc.net.au> (11 March 2017).

of the situation, Macedonian authorities did not have any concrete plans for handling the situation on the ground. At the beginning of the migrant crisis, the Republic of Macedonia adopted a humanitarian approach, allowing migrants to freely pass through their territory, without much institutional engagement and assistance, but with the enormous engagement of citizens and the NGO sector. With the absence of any institutionalised efforts to ease the transit of people through their territory, and even the prevention of migrants from using public transport, the physical security of migrants was severely endangered, resulting in dozens of deaths on the Macedonian railways. Such approach has opened space for the increase in human trafficking and growth of crime. Without institutional help, migrants were left on their own, which exposed them to an increased risk of being abused by smugglers.

As the migrant pressure gained strength, so did the public discontent which pushed the public authorities to come up with some concrete measures

“A significant increase in the number of illegal migrants in transit coincided with a political crisis in Macedonia which was fuelled by the affair of wiretapping of opposition and political opponents by the government of Nikola Gruevski” (Tatalović & Malnar; 2015; 24). Under these circumstances, Macedonia made the first step towards securitisation, when on the 20 August 2015 the Government declared a ‘crisis situation’ or ‘state of emergency’ in southern and northern parts of the country, based on the explanation that “... these measures are based on the influx of migrants and aimed at ensuring a more efficient transit through Macedonia (...) and the need to provide security of the local population in the border areas.”

In implementing the humanitarian approach, the Republic of Serbia was faced with the problems associated with transport and accommodation of migrants and misunderstandings in cooperation with neighbouring countries on the route, first with Hungary and in September 2015 with Croatia. It took some time for the Republic of Serbia to establish some sort of control over the movement and residence of migrants in its territory and smugglers skilfully used such situation. Although Serbia is increasingly establishing and improving the accommodation capacities offered to migrants, some of these people still stay at Hungarian border, or out in the



open in the Belgrade city centre. According to the UNHCR (2016) there are some 6,300 migrants in Serbia.

Facing the growing number of asylum seekers since the Macedonian-Greek border was closed, Serbia receives the technical, financial and humanitarian support from the EU. General assessment is that in spite of “limited institutional and accommodation capacity and reported cases of human rights abuses, its open border policy, political discourse and overall handling of the crisis have largely been considered positive” (Lilijanova; 2016).

The main objective of Hungarian migration policy is to keep the migrants out, in order to be able to ensure national security. Hence, Hungary and the rest of the V4 countries voted against the EU resettlement scheme and do not accept any migrants from Greece or Italy to be relocated to their territory. Their opinion expressed in the latest program of the Polish presidency of V4 (July 2016-June 2017) clearly states that these four countries insist “on opposing any changes that would result in the introduction of any permanent and compulsory redistribution mechanism or would significantly reduce Member States competencies in this area” (Polish Presidency of the Visegrad Group; 2016; 9).

Prime Minister Orban and the Government emphasised that due to the recent migration crisis, Hungary has faced with the unprecedented numbers of migrants on its territory, while the truth is slightly different – namely Hungary has seen an unprecedented number of asylum seekers, who filed their applications in Hungary for formal reasons, only to be able to reach the territory of other, Western European countries. Moreover, “in 2015 only a few thousand asylum seekers have remained in Hungary despite almost 180,000 registering. According to Hungarian Helsinki Committee figures, by the end of the year the number of those staying in the country has dropped to 900-1,000; approximately 450-500 are being subjected to detention, while immigration procedures are already underway for the other 450-500 people” (Juhasz, Hunyadi & Zgut; 2015; 10).

During the six-month period from September 2015 until March 2016, 658,068 migrants have passed through the Croatian territory (Ostojiæ; 2017). At the beginning of the migration crisis in 2015 Croatia was not on the migration route, since the migrants tended to enter the Schengen zone at the Serbian-Hungarian

border. However, on 16 September 2015, first larger groups of migrants started to arrive to Croatia. What followed were the initial disorientation of the Government and several days of problems on the border with Serbia which led to the temporary blockade of the border and strained political relations. Yet, as the situation normalised, the authorities began to practice an organised activity of receiving large number of migrants daily, escorting them to the reception centres and transporting them by trains to the Hungarian and Slovenian borders. Along the route, migrants were transferred by trains and busses free of any charge, which significantly decreased their vulnerability in terms of smuggling.

However, it is worth noting that different “domestic political actors in Croatia took different positions regarding the nature of migration that Europe was facing at that time, and consequently advocated different approaches and policies. There were also some bilateral disagreements with all the neighbouring countries on the route – Serbia, Hungary and Slovenia.” (Jakešević; 2017; 177)

The first migrants started arriving to Slovenia from Croatia in the second half of October 2015, after Hungary had erected the fence on the Croatian-Hungarian border. Bilateral disagreements ensued almost immediately, since Slovenian authorities accused their Croatian counterparts for not fulfilling the required procedures, concerning migrants’ registration, and control of the borderline. The first reaction of the Slovenian authorities was that they wanted to establish the full control over the movement of migrants through their territory, urging Croatian authorities to slow down the pace of the organised transport to Slovenian refugee camps along the border. Practically the same day that the first migrants arrived to Slovenia, the country suspended the train connections between the two states.

### **The Role of the Military, Physical Barriers and Narratives in the Migration Crisis**

Before the maritime routes via the Greek islands became as active as they had been throughout 2015, the main transit route ran through the continental part of the country, this being the shortest route from Turkey to Greece. However, in 2011 the Greek

Government decided to build 12.5 km long fence made of concrete and wire, as the remainder of the borderline was protected by the natural barrier of river Evros. The construction of the fence was finished in 2012, resulting in an increased number of migrants on the maritime route which is significantly more dangerous. This was, thereby, the first recent example of erecting physical barriers as means of tougher border controls.

Before the EU-Turkish agreement had been signed in March 2016 and at the time when the countries which had willingly received migrants started to reverse their 'open door policies', several EU countries made strong pressure on Greece to enhance its border control management, calling for the greater use of the Greek Navy in controlling Turkish-Greek border. These pressures even included threats to expel Greece from the Schengen zone.<sup>6</sup> Such demands were met by the establishment of a central coordination body, under the auspices of the Ministry of Defence in February 2016. With the creation of the Central Coordinating Body for the Management of Migration, Greek military assumed the role of overseeing all the activities of the Migration Ministry, Greek police, Coastal Guard and NGO sector.<sup>7</sup>

The ongoing problem is that the relocation of migrants from Greece and Italy to other EU member states is not proceeding as planned. Additionally, the migrant activity at the Greek-Turkish border is increasing, as the EU-Turkey relations deteriorate.

After introducing "the state of emergency" Macedonian authorities attempted to close the border with Greece allowing only a small number of migrants from vulnerable groups to enter, while they deployed the army at the border in support of the police actions (Tataloviæ & Malnar; 2015; 27). Soon after, Macedonia started to erect a razor wire fence on its southern border with Greece (30 km at the beginning of 2016) and deployed their

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<sup>6</sup> EU migration crisis: Greece threatened with Schengen area expulsion (25 January 2016). Accessible at: <https://www.theguardian.com/world/2016/jan/25/greece-under-growing-pressure-to-stem-flow-of-refugees-and-migrants-into-eu> (11 March 2017).

<sup>7</sup> Greek military to oversee response to refugee crisis (02 February 2016). Accessible at: <http://www.ekathimerini.com/205640/article/ekathimerini/news/greek-military-to-oversee-response-to-refugee-crisis> (10 March 2017).

military units to patrol the border. As the tension on the Greek-Macedonian border rose, it frequently escalated into clashes between migrants and the police which used tear gas on the refugees attempting to break through the fence (Spasevska; 2016).

This attempt of Macedonian government to securitise migration crisis had its origin in internal political reasons and its aim was to shift the public attention from the serious situation in the country on the verge of a deep political crisis. In contrast to such a discourse on the internal political agenda, in its foreign policy contacts the Government advocated a humanitarian approach and cooperation with other countries in tackling the crisis, primarily seeking assistance from the European Union. With no institutional and financial capacities to cope with the situation on the ground in an appropriate manner, and with no power to significantly influence the EU response to the crisis, Macedonia saw itself as a victim of the lack of coordinated response within the EU institutions and the diverse policies adopted by different transit and destination countries. Macedonian president Ivanov thus urged European states to grasp the situation in broader terms, and tackle the security dimension of migration more thoroughly. In his interview to the German newspaper *Bild* he stated that “the security situation has been entirely ignored”, that “the EU has no right to accuse Macedonia” and claimed that had Macedonia trusted Brussels, they would have been “flooded with jihadists”.<sup>8</sup> This type of narrative, which emphasises close connection of migration with terrorism, inevitably points to the securitising discourse which was present in Macedonia.

Nevertheless, though the main actors managed to securitise the problem for a short period of time, it is generally estimated that the securitisation in Macedonia was unsuccessful, since the border was sealed mainly as the consequence of the EU-Turkey deal (unlike in Hungary).

Serbia sought to use the migration crisis primarily to strengthen its international position, advocating humanitarian approach. Such policy remained dominant as long as the migrants

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<sup>8</sup> Refugee crisis: Macedonia tells Germany they've 'completely failed' (12 march 2016). Accessible at: <http://www.independent.co.uk/news/world/europe/macedonai-tells-germany-youve-completely-failed-a6927576.html>. (10 March 2017)

were able to continue freely to Hungary and Croatia. When this was no longer possible, the Republic of Serbia started reinforcing its border with Macedonia and Bulgaria. A potential change in attitude was evident in the statement made by the Serbian Minister of Labour, Employment, Social and Veteran Affairs Aleksandar Vulin who said: "Serbia will protect its territory. We will not allow anyone who cannot continue their journey [to other European countries] to enter our country, since we are not their destination country, but just a country of transit"<sup>9</sup> Unlike in Macedonia, Hungary, Greece and Slovenia, Serbian army was not assigned any role during the migration crisis.

An anti-immigrant rhetoric coupled with the strong national security imperative, societal security arguments and widespread use of the language of threat (that (Muslim) migrants pose to everything that constitutes European Christian identity) became the dominant feature of the governing political elites' narrative in Hungary. The opposition to such views within the country has been present, but such opinions were nevertheless unable to influence the official state policy in a way which would relax its views on migration. Such an unrelenting position resulted in deterioration of Hungary's relations with some of the neighbouring countries (Serbia and Croatia), but also other EU member states.

The case of Hungary offers the abundance of practices and speech acts for the analysis of different paths towards securitisation. Controversies in the wider European public were triggered practically every time that Prime Minister Orbán expressed his harsh views on migrations and migrants, and particularly on the ways in which the EU should respond to the growing number of migrants: "Those who came illegally must be rounded up and shipped out. (...) an estimated 1.5m refugees and migrants who arrived on the continent last year should be sent to 'an island or somewhere in north Africa' where European forces would enforce order. That will solve all the problems".<sup>10</sup>

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<sup>9</sup> Accessible at: <http://www.srbija.gov.rs/vesti/vest.php?id=252471,%207/2/2016> (11 March 2017)

<sup>10</sup> Viktor Orbán calls for 'round-up' of migrants in EU. (22 September 2016) Accessible at: <https://www.ft.com/content/6cda5b28-80bd-11e6-8e50-8ec15fb462f4> (10 March 2017).

As a response to the growing number of asylum seekers and the lack of operational capability of the states on the route to adhere strictly to the Schengen rules in terms of registration and Dublin regulation in terms of the responsibility of Greece (as the first country on the external EU border), Hungary started to set up a physical barrier on its border with Serbia in June 2015. Once it completely sealed that part of the border in mid-September 2015, migrant route diverted towards the territory of Croatia, which also shares a long border with Hungary. Practically all migrants which had passed through the Croatian territory were transferred further to Hungary or Slovenia. The next Hungarian move was to completely seal the border with Croatia too. Along with these actions which were coupled with the increasing role of the military in protecting the border, Hungary implemented significant legislative changes, the last of which (March 2017) allowed further border restrictions and detention of all migrants in detention camps along the border with Serbia. Since this is the EU external border and Hungarian authorities contend that the second 'migration wave' is to be expected soon, the latest measures include "the second line of a "smart fence" along the Serbian border, complete with electroshock, surveillance and audio-visual warning systems"<sup>11</sup>

While recognising the transit character of the country (as was the case during the recent migration crisis), Slovenian security policy documents construct migration as a threat to citizens (as referent objects). Such normative basis served as a stimulating condition for the development of securitising practices which occurred almost instantly as the first migrants reached the Slovenian soil. These practices (building of the wired fence; armed forces on the border) had in turn motivated additional legislative changes, which gave additional authorities to the armed forces in securing Slovenian borders.

Slovenian armed forces started the installation of the razor wire on the border with Croatia in November 2015 (Zupancic; 2016; 112), and the wire fence was reinforced with metal structures at

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<sup>11</sup> Hungary to detain all migrants in border camps, despite UN warnings of 'terrible physical and psychological impact' (7 March 2017) Accessible at: <http://www.telegraph.co.uk/news/2017/03/07/hungary-detain-migrants-border-camps/> (15 March 2017).

some border crossings in November the following year. This practical measure was accompanied by certain legislative changes, namely amendments to the Defence Act providing the Armed forces with some new functions, such as assisting police forces in the surveillance and protection of the border from the arrival of migrants.

Having practically the same situation on its border with Austria, which has built border barriers not only at its border with Slovenia, but at its Italian border as well, Slovenian political elites feared the potential future scenario of becoming overwhelmed by migrants. Although Slovenia agreed to the EU relocation scheme, according to which it should receive some 567 refugees from Italy and Greece, a strong security-control-based approach is present in its official policy. According to Vezovnik: "Throughout the whole period of Slovenia's involvement in the "Balkan migratory route", the media and political discourses played a crucial role in shaping and constructing images of migrants and migration in the Slovenian public imagination. However, the dominant political and media discourses did not establish the imagery of migration in isolation, but worked together. The Slovenian political strategy, which mainly focused on the implementation of successful securitisation measures, was entirely in line with the Slovenian mainstream media constructions of refugees as a security, economic and cultural threat" (Vezovnik; 2017; 100).

## **Conclusion**

The humanitarian approach to migration crisis of 2015/2016 was partly a consequence of the fact that the analysed countries were predominantly regarded as transit countries, since only a smaller number of migrants decided to apply for asylum there (except Hungary and Greece, to some extent). While emphasising humanitarian approach, some security related aspects of migration were also present in the public discourse, used by different actors for domestic political reasons. These were primarily state-centric and citizen-centric, meaning that they emphasised that the security of the state and its citizens were top priority for political and public authorities. On the other hand, a trend of securitising migration

can be observed in legislative measures and practices which followed the conclusion of the EU-Turkey agreement in different countries on the Balkan Route. Since certain pessimism has been present in the European public pertaining to the viability of this deal, some of these countries resorted to legislative changes and physical measures in protecting their borders, which might have practical consequences if new mass migration occurs.

The EU-Turkey deal presents very problematic part of the current EU plan of dealing with mass migration, since the mutual trust between the two sides deteriorated significantly at the beginning of 2017, even though the agreement has been tentative ever since the deal had been signed. Additionally, it gave Turkey very powerful tool of influence (Zupancic; 2016; 106). The recent public dialogue between the Turkish and EU political elites (especially those of Germany and the Netherlands), incited by the referendum on the increase of presidential powers in Turkey, revealed the discourse of growing distrust, mutual ultimatums and eventually threats. The instrument most frequently used by the Turkish side is the threat of abandoning the agreement (BBC, 2017), thus setting hundreds of thousands of people in motion towards the EU territory.

However, situation in many EU countries has changed substantially between the end of 2015 and the beginning of 2017, the period in which, despite the opposition of some member states, the “open door policy” was practiced (until March 2016). The presented case studies clearly demonstrate all the changes implying that the position and policies of the countries on the Balkan Route would be a lot different in case the route re-opens in the future. What we have been witnessing throughout the period of 2015-2017 is highly politicised discourse at the domestic and international levels, as migration proved to be powerful mean of political mobilisation (Jakešević & Tatalović; 2016; 1248) and political manipulation. As Guild states: “My contention is that the assumptions about groups of persons – in the case of migration, flows or stocks of migrants – are easily manipulated by political actors” (Guild; 2009; 5). Since recent migration towards Europe was not individual but mass migration, these contentions proved to be the case at national, bilateral but also multilateral level of the EU.



With the UK leaving the EU, the Visegrad group (Hungary, Slovakia, Czech Republic and Poland) opposing the EU quota system and developing its own vision of the future EU asylum and migration policy, border controls being strengthened, the Schengen rules suspended on many internal borders, and the EU quota system not working as planned, possible re-opening of the Balkan Route would put the whole Europe and the EU institutions to another serious test. Within this general European context, one can observe specific practices and policies occurring in different European states (EU and non-EU), which suggest that the recent migration crisis presented a huge challenge to their institutional and normative settings, in the absence of a stronger consensus on the nature of the current migration flow at international, as well as national levels. Securitisation success rate is quite mixed, whereby some countries on the route (Slovenia and Hungary) managed to impose the securitising discourse resulting in restrictive practices towards migrants and the perception of migration as existential threat to different referent objects. Other countries on the route exercised different approach, having predominantly assumed the role of transit countries, although there have been some clear signs, measures and practices which indicate that the future migration policy will be more security-oriented.

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# Policy of Multiculturalism in Serbia: Between Legal Confusion and Social Segregation

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## Abstract

The paper which was developed at the Institute of Social Sciences within the research made for the project entitled “Social Transformations in the Process of European Integrations – Multidisciplinary Approach” provides a critical overview of the policy of multiculturalism in the Republic of Serbia. Constitutional solutions and legislation which regulate the status of national minorities do not correspond to the country’s multiethnic nature. In consequence, Serbia is reduced to a state in which the policy of multiculturalism is replaced with the policy of the state consensus with monocultural groups pertaining to the protection of their vital interests. Such political constellation befits only the most numerous, as well as territorially and politically homogeneous national minorities with clearly defined negotiating positions.

*Keywords:* Serbia, multiculturalism, public policies, ethnocultural groups

## Ethnic Structure of Serbia

■ According to the 2011 Population Census, the Republic of Serbia had 7,186,862 citizens living on its territory, 5,988,150 (83%) of which being Serbs, with the remaining 1,198,712 (17%) belonging to national minorities. The most numerous national minorities were Hungarians with the population of 253,899, Roma with 147,604 and Bosniaks with 145,278 people. The national minority groups with populations between 50 and 100 thousand included Slovaks with the recorded population of 52,750 and Croats with 57,900 people.

The group of the national minorities with populations between 10 and 50 thousand people included Bulgarians (18,543), Bunjevci (16,706), Vlachs (35,330), Macedonians (22,755), Romanians (29,322), Rusyns (14,246) and Montenegrins (38,527). Additionally, in this group we find the citizens which identified their nationality with religion – Muslims with the population of 22,301 people, as well as 23,303 Yugoslavs whose national identity is rooted in the identity of the state which dissolved during the 1990s. The Gorani people with the population of 7,767 are the only national minority with the population in the range between 5 and 10 thousand. The minorities with populations of up to five thousand people include Ukrainians with 4,903 members, followed by Germans (4,064), Slovenes (4,033), Russians (3,247), Egyptians (1,834) and Czechs (1,824). The census also recorded a number of national minorities with populations of less than a thousand people: Ashkali (997), Greeks (725), Jews (787), Armenians (222), Turks (627), Aromanians (243), Shokci (607) and Shopi (142). Only 5,809 Albanians were recorded in this Census, but this number is misleading as it resulted from this population's boycott of the Census, while it is estimated that there are some 60,000 of Albanians living in Serbia, excluding Kosovo. The previous Census recorded 61,647 Albanians living on this territory.<sup>1</sup>

Regional and local distributions of population have a major impact on the scope and quality of implementation of national minorities' rights, the fact which will be address in more detail. Here it needs to be stressed that the distribution of national minorities in Serbia is also characterised by higher concentrations of the numerous minorities, homogeneously distributed along the state borders, dispersion of certain minorities on the entire territory of Serbia, as well as concealment of certain minority identities within the neighbouring ethnic groups.

The minority populations concentrated in certain geographical areas, or municipalities include Albanians, Bosniaks, Bulgarians, Bunjevci, Hungarians, Rusyns, Romanians and Ukrainians, while the remaining populations are dispersed regionally, or throughout the country.

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<sup>1</sup> Census of Population, Households and Residential Units in the Republic of Serbia in 2011, Nationality, The Data Segregated by Municipalities and Cities, Statistical Office of the Republic of Serbia, Belgrade, 2012



Most of the Albanians inhabit the central part of the country, the Preševo Valley. According to the latest Census, largely ignored by the Albanians, the number of members of this national minority (1,715) in Bujanovac, Preševo and Medveđa, the municipalities which they traditionally inhabit, is almost identical to the number of Albanians in Belgrade region (1,252). The census before last evidenced that 93% of the Albanian population lived in these three municipalities: 23,681 in Bujanovac, 31,098 in Preševo, and 2,816 in Medveđa.

The Bosniak population is concentrated in the southeast part of Central Serbia, the region called Sanjak by Bosniaks and Raška by Serbs. They are the most numerous in the city of Novi Pazar, with 77,443 members of this population living there, as well as in the municipalities of Tutin (28,041) and Sjenica (19,498). In the neighbouring municipalities of Priboj and Prijepolje, the recorded number of Bosniaks is 3,811 and 12,792 respectively, while Nova Varoš has 788 Bosniaks living there. When it comes to the population structure in the municipalities that Bosniaks traditionally inhabit, the greatest share of this population is in Tutin (90%), Novi Pazar (77%) and Sjenica (73%). The share of Bosniaks in the total population of the municipality of Prijepolje is 34%, 14% in Priboj, and 4.7% in Nova Varoš. The capital of Serbia has the Bosniak population of 1,596 members.

The greatest number of Bulgarians in Serbia, 15,501 of them, lives in Eastern Serbia, in the municipalities of Bosilegrad and Dimitrovgrad, while the village Ivanovo in the municipality of Pančevo has the Bulgarian population of some 500 people. There are 5,893 members of this national minority living in the municipality of Bosilegrad, this being 72% of the total population, while Dimitrovgrad has 5,143 Bulgarians, i.e. 53.4% of the total population belong to this national minority. A significant number of Bulgarians resides in the cities of Niš (927) and Vranje (589), as well as in the municipality of Surdulica (734). Finally, there are 1,188 Bulgarians living in Belgrade.

Out of the total number of 16,706 members of the Bunjevci population, the majority lives in Subotica (13,553) making 9.5% of the city's total population, as well as in the city of Sombor where 2,058 of Bunjevci make 2.3% of the total population. The total number of Bunjevci living in Belgrade is 172, with 278 additional members of this population living in Novi Sad, the capital of the Autonomous Province of Vojvodina.

The Vlach population resides in the northeast part of Central Serbia, and the members of this national minority are the most numerous in the cities of Bor (6,701 – 13.7%) and Zaječar (2,856 – 5%), as well as in the municipalities of Petrovac na Mlavi (4,609 – 15%), Boljevac (3,356 – 26%), Majdanpek (2,442 – 13%), Negotin (3,382 – 9%), and Žagubica (2,811 – 22%). The Vlach population is also dispersed in other municipalities such as Kladovo with 788 members of this national minority, Despotovac with 687, Čuprija with 782, Veliko Gradište with 382, Golubac with 424, and Žabari with 433. There are 182 Vlachs living in Belgrade according to the Population Census.

Hungarians are the most numerous in the northern part of the country and in certain cities and municipalities in Vojvodina. Most of them live in the north Banat and Bačka regions, along the river Tisa, while the number of Hungarians decreases in the southern parts of Vojvodina. The city of Subotica has the largest population of Hungarians living there, 50,496 of them, this being 36% of the total city population. Hungarians are the absolute majority in the municipalities of Kanjiža 85% (21,576), Senta 79% (18,441), Ada 75% (12,750), Bačka Topola 58% (19,307) and Mali Idoš 54% (6,486). There are 13,272 (4%) of Hungarians living in Novi Sad, 9,874 (11%) in Sombor, 7,460 (26%) in Temerin, 3,387 (21%) in Srbobran, 2,464 (6%) in Vrbas, and 1,356 (2%) in Bačka Palanka. In the Banat region, members of the Hungarian national minority live in the cities of Pančevo 3,422 (3%), Vršac 2,263 (4%), Zrenjanin 12,350 (10%) and Kikinda 7,270 (12%), as well as in the municipalities of Žitište 3,371 (20%), Novi Bečej 4,319 (18%), Sečanj 1,691 (13%), Nova Crnja 1,819 (17%), Čoka 5,661 (49%), and Novi Kneževac 3,217 (28%). In the Srem region, Hungarians traditionally inhabit Inđija 829 (2%), Irig 762 (7%) and Sremska Mitrovica 696 (1%). There are 1,810 (0,1%) of Hungarians living in Belgrade.

Macedonians are dispersed all over the country, with the greatest number of them living in Belgrade (6,970 or 0.4%) and Pančevo (4,558 or 4%). According to the Population Census, there are 1,111 (0.3%) of Macedonians living in Novi Sad and 823 (0.3%) in Niš. A small number of members, up to 400 people, of the Macedonian national minority, live in the majority of the local self-government units.

Roma are the second minority community in Serbia when it comes to the size of population. The Roma population is highly dispersed and prone to ethnic mimicry (Bašić; 2018: Bašić & Jakšić; 2005). The most numerous Roma population lives in Belgrade, where 18% of the total Roma population lives, 27,325 of them, making 1.6% of the total population of Belgrade. Around two thirds of the Belgrade Roma population lives in the urban municipalities of Zemun, Palilula, Čukarica and Novi Beograd. The cities of Leskovac, Niš and Vranje have at least 20,000 Roma living there. There are 7,700 (5%) of Roma living in Leskovac, 6,996 (3%) in Niš, and 4,654 (6%) in Vranje. In Central Serbia, towns with more than a thousand Roma include Bojnik 1,649 (14.4%), Lebane 1,251 (6%), Pirot 4,302 (5%), Bela Palanka 1,418 (12%), Smederevo 2,369 (2%), Vranjska Banja 1,375 (14%), Surdulica 2,631 (13%), Vladičin Han 1,503 (7%). In Požarevac, there are 3,688 Roma (5%), while in its municipality of Kostolac, there are 2,659 (19%) Roma. Roma also live in the municipalities of Žitorađa 1,336 (8%), Prokuplje 2,154 (5%), Doljevac 1,218 (7%), Ub 1,118 (4%) and the cities of Bor 1,758 (4%), Kragujevac 1,482 (1%), Kraljevo 1,266 (1%), Kruševac 2,461 (2%), Šabac 1,902 (2%) and Valjevo 1,413 (2%). A large Roma community of 4,576 people lives in Bujanovac, which makes 25% of the total population according to the 2011 Population Census, yet providing that the Albanian community boycotted the Census, as it has already been mentioned, Roma make around 1% of the population there. The cities and towns on the territory of Vojvodina with more than a thousand Roma living there include Novi Sad 3,576 (1%), Sremska Mitrovica 1,194 (1%), Ruma 1,297 (2%), Pećinci 1,008 (5%), Novi Bečej 1,295 (5%), Nova Crnja 1,016 (10%), Zrenjanin 3,410 (3%), Kikinda 1,981 (3%), Žabalj 1,301 (5%), Beočin 1,422 (9%), Bačka Palanka 1,064 (2%), Pančevo 2,118 (2%), Kovin 1,516 (4%), Vršac 1,368 (3%), Sombor 1,015 (1%), and Odžaci 1,035 (3%)

Romanians are the most numerous in Vršac 5,420 (10%), Alibunar 4,870 (24%), Pančevo 3,173 (2,4%), Žitište 1,412 (8%), Plandište 784 (7%), Kovačica 1,543 (6%), Bela Crkva 842 (5%), Kovin 1,170 (3%), Zrenjanin 2,161 (2%). There are 891 (0,2%) of Romanians living in Novi Sad, and 1,282 (0.7%) in Belgrade.

Traditionally, Rusyns live in larger numbers in the municipalities of Kula 4,588 (11%), Vrbas 3,375 (8%) and Žabalj 1,198 (5%).

There are 2,160 (0.5%) of Rusyns living in Novi Sad, and 245 (0.1%) in Belgrade.

Traditional places of residence for Slovaks in Serbia include the municipalities of Bački Petrovac 8,720 (65%), Kovačica 10,577 (42%) and Stara Pazova 5,212 (8%). Slovaks also reside in the municipalities of Bačka Palanka 5,047 (9%), Bač 2,845 (20%), and the cities of Pančevo 1,411 (1%), Zrenjanin 2,062 (2%) and Novi Sad 6,393 (2%). There are 2,104 (0,1) of Slovaks living in Belgrade, 1,254 of whom lives in the settlements of Dobanovci and Boljevci in the metropolitan municipality of Surčin (3%).

Ukrainians traditionally live in the municipalities of Kula 1,290 (3%) and Vrbas 836 (2%). There are 425 of Ukrainians living in Novi Sad, and 418 in Belgrade.

Members of the Croatian national minority are the most numerous in Subotica 14,151 (10%), Sombor 7,070 (8%), Apatin 3,015 (10%), Bač 1,209 (8%), Petrovaradin 1,554 (5%), Šid 1,784 (5%), Stara Pazova 1,336 (2%), Inđija 1,569 (3%). According to the Census, there are 5,335 (1.5%) of Croats living in Novi Sad, and 7,752 (0.5%) living in Belgrade.

Montenegrins are the most numerous in Belgrade 9,902 (0.6%), Vrbas 7,353 (18%), Kula 4,334 (10%), Mali Idoš 1,956 (16%) and Novi Sad 3,334 (1%)

Small national minorities such as Czechs, Aromanians, Poles, Ashkali, Russians, Germans and Jews usually reside in urban areas and, except for Czechs who traditionally live in the municipality of Bela Crkva, and Germans concentrated in Vojvodina, the most of them live in Belgrade.

The description of the ethnic structure and overview of the national minorities' places of residence are also important since the public policies in the Republic of Serbia have adopted the system which favours the number and homogeneity of residence of national minorities' members as decisive when it comes to implementation of rights. The number of national minorities' members, dispersion of their populations and non-demographic factors such as social organisation of minority communities and organisation of minority self-government determine the collective rights which the national minorities would be able to implement, as well as the funds that they would be allocated to this end from public funds.

Numerous national minorities are more likely to organise their full cultural autonomy and secure the conditions for the preservation and development of their ethnic, cultural and linguistic identity. However, contrary to the “large number” principle are the needs of national minorities and the level of societal development fulfilled and achieved by certain national minority communities. Taking account its size, Serbian Roma community should be able to implement the same rights granted to Bosniaks and Hungarians. However, this is not the case since, unlike Bosniaks and Hungarians who have achieved their full cultural autonomy, Roma fail to do so, since apart from the size of population, this also requires specific location of a national minority and solidarity of the community members. Homogeneously residing national minorities achieve a higher level of the protection of their collective rights. In practice, this is strange and unjustified as public resources for identity protection remain unavailable to small and socially vulnerable national minorities (Bašić, 2018).

## Legal and Political Status

The constitutional definition of the Republic of Serbia as a state of Serbian people and all citizens who live in it<sup>2</sup> has thwarted the development of the integrative policy of multiculturalism. The Republic of Serbia is a national state which, apart from the Serbian majority, is inhabited by members of other nations, ethnic and linguistic groups. This constitutional provision produced apprehension among minority populations, especially among those who have advocated integration as the national social model. When compared to the previous 1990 Constitution, which defined Serbia as “a democratic state of all its citizens, based on freedoms and rights of the citizens,”<sup>3</sup> the character of the state was changed. From the declarative constitutional multiculturalism, a transition was made to monocultural logic of the state organisation. The

<sup>2</sup> Constitution of the Republic of Serbia, Official Gazette of the Republic of Serbia, no. 98/2006.

<sup>3</sup> Constitution of the Republic of Serbia, Official Gazette of the Republic of Serbia, no. 1/1990.

unease demonstrated by multiculturalists was contributed by the betrayed expectations concerning the new Constitution, as they had expected that much better conditions would be created for the protection of the minority cultural identities and their integration than the situation had allowed during the 1990s, when the aforementioned "Civic" Constitution had been in effect and contributed to the rise of nationalism, as well as grave political abuses of ethnicities.

The segregation model of multiculturalism in present day Serbia also originates from the constitutional guarantees of a special protection for national minorities in order to allow for them to exercise full equality and preserve their identity (Article 14) and Article 81 under which the state commits to giving impetus to the spirit of tolerance and intercultural dialogue. The commitment to legally protect particularised, closed identities by tolerating difference, rather than strengthening trust and exchange of cultural values is another discouraging message to the advocates of integrative multiculturalism.

Article 76 made constitutional certain institutions and legal principles which had existed before in legal and social life, but had not enjoyed the trust, until the adoption of the Constitution, of either public administration, which needed to implement those principles, or wider public in general. This article stipulates that, apart from the rights guaranteed by the Constitution to all citizens, additional, individual and collective rights are also guaranteed. Individual rights are implemented individually, while collective rights are implemented in community with others, in line with the Constitution, legislation and international agreements. Through the collective rights, members of national minorities, directly or through their representatives, participate in decision-making or decide themselves on the issues concerning their culture, education, information and official use of language and script, in line with the law.

Directly related to this is Article 79 which regulates the contents of the cultural autonomy and self-government of national minorities: "Members of national minorities shall have a right to: expression, preservation, fostering, developing and public expression of national, ethnic, cultural, religious specificity, use of their

symbols in public places, use of their language and script, have proceedings also conducted in their languages before state bodies, organisations with delegated public powers, bodies of autonomous provinces and local self-government units, in areas where they make a significant majority of population, education in their languages in public institutions and institutions of autonomous provinces, founding private educational institutions, use of their name and family name in their language, traditional local names, names of streets, settlements and topographic names also written in their languages, in areas where they make a significant majority of population, complete, timely and objective information in their language, including the right to expression, receiving, sending and exchange of information and ideas, establishing their own mass media, in accordance with the Law.”

It is highly important for the implementation of national minority rights that Article 76 of the Constitution envisages that national minorities’ members can implement their collective rights through minority self-governments, but also directly. Direct implementation of collective minority rights is not enabled due to the centralised organisation of minority self-governments, i.e. due to the legally stipulated manner of their election, as well as their organisation exclusively on the national level. Consequently, national minorities’ members directly decide only in a small number of cases: when they decide whether they would sign for a special voter list for the election of minority self-government units and pertaining to the language in which their children would receive instruction when enrolling them in preschools and schools (Bašić & Pajvančić, 2015, 131).

The collective rights to minority self-government and cultural autonomy which were constitutionalised in 2006, had been introduced into legislation in 2002 through the Law on the Protection of Rights and Freedoms of National Minorities<sup>4</sup>. The law was adopted in the National Assembly of the Federal Republic of Yugoslavia in order to define the basic principles of the protection

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<sup>4</sup> Law on the Protection of Rights and Freedoms of National Minorities, Official Gazette FRY, no. 11/2002, “Official Journal SMN” no. br. 1/2003 – Constitutional Charter and Official Gazette RS, no. 72/2009 – other laws and 97/2013 – decision of the Constitutional Court.

of national minorities' rights in what was then a two-member federation. However, as both of the federation members had had their specific issues and attitudes towards multi-ethnicity, it was envisaged for each member state to adopt separate laws and thus regulate the status and protection of rights of the national minorities living on their territory. After the State Union of Serbia and Montenegro had been dissolved, this law was transplanted into the legal system of the Republic of Serbia. It needs to be emphasised that the law had an exceptional importance for the democratic development of the country, as its spirit and provisions influenced the text of the Charter of Human and Minority Rights and Freedoms and Civil Liberties which was a part of the constitutional system of the State Union of Serbia and Montenegro, and subsequently also had impact on the Constitution of the Republic of Serbia. However, positive legal, political and social legacy of the Law on the Protection of Rights and Freedoms of National Minorities cannot serve as an excuse for the state's failure thus far to adopt a law which would regulate the status and implementation of rights of national minorities.

Instead of a law which would regulate the implementation and protection of national minorities' rights, the Law on National Councils of National Minorities<sup>5</sup> was adopted in 2009 to stipulate the competences and election of minority self-government units. The status of national minorities and implementation of their rights (education and information in their mother tongue, official use of their language and script, protection of their cultural identity, their participation in political life, prohibition of discrimination, etc.), as well as the manner of their funding are regulated by other laws and bylaws that are often contradictory and do not contribute to the creation of legal security.

In attempts to overcome this problem, that experts have been warning against for more than a decade (Bašić, 2006, 61-116), after the opening of Chapter 23 for the accession of the Republic of Serbia to the European Union, the state introduced the initiative for the amendment of the Law on the Protection of Rights and

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<sup>5</sup> Law on National Councils of National Minorities, Official Gazette RS, no. 72/2009, 20/2014 – decision of the Constitutional Court and 55/2014.



Freedoms of National Minorities, Law on National Councils of National Minorities and the Law on Official Use of Languages and Scripts, yet the public discussions concerning these amendments have indicated that the proposed amendments do not repair the flaws of the existing policy of multiculturalism.<sup>6</sup>

Apart from the centralised arrangement of minority self-government units, the fundamental issues of the generally inconsistent policy of multiculturalism in Serbia are: a) partocratic character of the state generating excessive and destructive influence of political parties on the election and operation of minority self-government units, b) segregational character of the policy of multiculturalism which does not correspond to the multi-ethnic nature of the country and c) full or partial inaccessibility of cultural autonomy to the small and dispersed national minorities.

In the legal and political systems of the Republic of Serbia, political parties of national minorities have a status which, providing that they represent numerous and homogeneous minorities, provides them with a solid negotiating leverage. The Law on Political Parties<sup>7</sup> stipulates that a political party of a national minority is "a political party whose political operation [...] is particularly aimed at representation of and advocacy for the interest of a national minority and improvement of the rights of the national minority's members in accordance with the Constitution, law and international standards, which is regulated by the memorandum of association, programme and statute of the political party." To define the status of minority political party before adopting a law to regulate the status of the national minorities' members, is yet another indicator of the corporate approach to the regulation of national minorities' status in Serbia. Legal foundation of the status of national minority party contributed more to the negotiating

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<sup>6</sup> See the Opinion of the Coalition of CSOs concerning the Draft Law on the Amendments to the Law on the Protection of Rights and Freedoms of National Minorities (<http://www.ercbgd.org.rs/sr/component/content/article/22/227-saopstenje-organizacija-civilnog-drustva-u-vezi-sa-nacinom-na-koji-tece-proces-izmene-propisa-kojima-je-uredjen-polozaj-nacionalnih-manjina.html>)

<sup>7</sup> Official Gazette of the Republic of Serbia, no. 36/2009 and 61/2015 – Decision of the Constitutional Court.

positions of the interest groups within minority communities, than to the political participation of the national minorities in Serbia.

This was evident as early as 2003, when the political parties of national minorities failed to win a single seat at the parliamentary elections. This was followed by amendments to the Law on the Election of Members of Parliament to let political parties of national minorities and coalitions thereof to participate in the division of seats even if they failed to reach the electoral threshold of 5%.<sup>8</sup> This implies that political parties of national minorities may count to get some seats in case they managed to reach the “natural threshold”. Natural threshold is alleviation in the electoral system which allows national minority parties to participate in the distribution of representative seats in case they win at least the number of votes sufficient for a single seat. This means that with the total turnout of voters of 60%, political parties of national minorities can get a seat providing that they got some sixteen thousand votes (0.4%).

Natural threshold is not an affirmative action measure which allows for the political representation of national minorities regardless of the results of the election. On the contrary, it is a proper obstacle which national minorities need to overcome, so its application, without additional affirmative action measures, does not suit small and spatially dispersed national minorities. The introduction of the natural threshold ensued after the agreement of the parliamentary parties with influential minority parties and thus it suits numerous, homogeneous national minorities whose political parties have convergent political aims and actions. The Alliance of Vojvodina Hungarians is the only minority party which has been winning more and more seats from the election of 2007 onwards, while the members of other numerous national minorities, Albanians and Bosniaks, managed to win parliamentary seats only from time to time. In spite of being a numerous national minority, Roma do not benefit from this alleviation due to the

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<sup>8</sup> Article 82, para 2 of the Law on People’s Deputies (Official Gazette of the RS, no. 35/200, 57/2003 – Decision by the Constitutional Court of the Republic of Serbia, 72/2003, other laws, 75/2003 – correction 18/2004, 101/2005 – other laws, 85/2005 – other laws, 28/2011 – Decision by the Constitutional Court, 36/2011 and 104/2009 – other laws).

spatial dispersion and heterogeneity of their population. Presently, due to the implementation of natural threshold, the National Assembly has four representatives of the Alliance of Vojvodina Hungarians in coalition with a representative of the Party for Democratic Action (a party of the Albanian national minority), the Party of Democratic Action has two representatives, as well as Justice and Reconciliation Party representing the interests of Bosniaks in Serbia, and a representative of the Democratic Alliance of Croats in Vojvodina, elected as a part of the list of the Democratic Party. There are eight representatives of Hungarian political parties in the Assembly of the Autonomous Province of Vojvodina – six from the list of the Alliance of Vojvodina Hungarians, elected by 5% of the voters, and two belonging to the coalition named Hungarian Movement for Autonomy, elected by 1.67% of the voters.

Small, spatially dispersed and politically heterogeneous national minorities cannot be aided by the natural threshold to participate in the political life, except in rare cases when representatives are elected for the councils of local self-governments. Truth be told, should national minorities' political parties change their political action strategy and try to achieve their political goals by creating broader coalitions, the number of their representatives in representative authorities would probably increase. It is clear that even then, a great number of the national minorities would be left outside the political decision-making process. This has been indicated by the example of the coalition *Together for Tolerance* which failed to reach the electoral threshold at the 2003 elections, regardless of the fact that it was composed of political parties of the numerous national minorities, Hungarians and Bosniaks, together with the League of Social Democrats of Vojvodina.

The political influence of national minority parties was strengthened in a manner which compromised minority self-government and cultural autonomy. Namely, Article 71 of the Law on National Councils of National Minorities enabled, among others, registered political parties of national minorities to submit their electoral lists and participate in the elections for minority self-government units. In practice this implies that other proponents (citizens' associations and groups of voters entered into special

minority voter lists) which lack appropriate infrastructure and have not developed internal discipline, do not enjoy equal conditions at the elections. In order to mask the open and predominant influence of national minority parties on the election of minority self-government units, associations and citizens' groups covertly supported by the political parties propose their lists. This, however, opened an avenue for non-minority parties to organise and find ways to influence the election of national minorities' self-governments. Such system is not just and it does not provide for effective participation of national minorities in political life, nor does it contribute to cultural autonomy and minority self-government.

The excessive influence of political parties on the operation of minority self-governments has been addressed in many complaints, opinions by the academic community, citizens' association, as well as by international community, yet the Draft Law on the Amendments to the Law on National Councils of National Minorities has not amended the status of national minorities' political parties in the process of the election of national minority self-government.<sup>9</sup> The new article 7a which regulates the issue of the conflict of interest concerning the positions in minority self-government units<sup>9</sup> should serve as a diversion and draw attention from this problem.

So, political representation of national minorities is effectively secured only in those local self-governments in which national minority populations have absolute or relative majority in relation to the total population.<sup>10</sup> Confusion arises from Article 9 of the Law on

<sup>9</sup> <http://www.mduls.gov.rs/aktivnosti-obavestenja.php#a126>

<sup>10</sup> For Example, in the local self-government units in which Bosniaks have the absolute majority, the city of Novi Pazar and municipalities of Sjenica and Tutin, the majority of the councillors are Bosniak. In Novi Pazar, 42 councillors were elected from the four lists of the political parties representing Bosniaks. In Sjenica, out of 39 councillors, 30 were elected from the three "Bosniak" lists. In the municipality of Tutin, all 37 councillors were elected from the lists of the three political parties representing Bosniaks. In the municipalities of Prijepolje and Priboj in which Bosniaks are not in the majority, the situation is somewhat different: in Prijepolje, out of 61 councillors, 21 were elected from the lists of three Bosniak parties., while in Priboj, out of 41 councillors, 9 were elected from the lists of the parties representing Bosniaks. The situation is similar when it comes to political representation of other national minorities. In the municipality of Senta in which Hungarians are in the majority, out of 29 councillors, 19 were elected

Local Elections which stipulates that “in units of local self-government with a mixed ethnic composition, national minorities shall be proportionately represented in the assemblies of units of local self-government”. Proportionate representation of different national minorities is not secured. Other articles of this law (40, 41) stipulate the application of the natural threshold when distributing the mandates to the political parties of national minorities that failed to achieve the electoral threshold. The application of the aforementioned Article 9 would require not only a different election system, but also serious changes in the political system of the country. This article should be remembered as an example of legislative solution which contributes to the inconsistency of the Serbian policy of multiculturalism.

The right of national minorities’ members to equally, under the conditions identical to those identified for other citizens, participate in administering public affairs and assume public positions is guaranteed by Article 77 of the Constitution, while the same article stipulates that “When taking up employment in state bodies, public services, bodies of autonomous province and local self-government units, the ethnic structure of population and appropriate representation of members of national minorities shall be taken into consideration.” The Law on the Protection of Rights and Freedoms of National Minorities stipulates that: “In respect of employment in public services, including the police, attention shall be paid to the national composition of the population, appropriate representation and competence in the language spoken in the territory of the relevant body or service” (Article 21). This provision, which aims at improving the integration of national minorities and strengthening of social trust, is not consistently implemented and this is clearly emphasised as an issue requiring urgent action, in the Third Opinion by the Advisory Committee on Implementation of the Framework Convention in Serbia.<sup>11</sup> The Advisory Committee

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from the three lists proposed by the political parties representing Hungarians; in Kanjiža, out of 29 councillors, 17 are from two lists of the Hungarian national minority; in the city of Subotica, out of 50 councillors, 10 are from the list of the Alliance of Vojvodina Hungarians...

<sup>11</sup> <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168008c6aa>

recommended Serbian authorities to: “promote the effective participation of national minorities, including the numerically smaller ones, in the electoral process”, “take vigorous measures to address the under-representation of national minorities in public administration, particularly at state level” and “to pursue their efforts to create a multi-ethnic police force”.

In June 2009, the Ombudsman of the Republic of Serbia sent his Recommendations to the Human Resources Management Service of the Government of Serbia in order for them to undertake the following measures in order to increase the participation of members of national minorities in state administration bodies: a) “to collect and update the data pertaining to the nationality of the state officers and employees”, b) “develop the plan of action with the purpose of increasing the employment of national minorities’ members in the bodies of public administration, as well as to review the undertaken activities with the purpose of increasing the participation of members of national minorities as employees in public administration bodies” and “when filling up vacancies by issuing a public call, to publish the call in a newspaper in the languages of national minorities, especially when the vacancy being filled is in a regional unit of public administration which is established on a territory predominantly and traditionally populated by members of national minorities.”<sup>12</sup>

This right has not been implemented, while the HR Management Service of the Government of the Republic of Serbia has not implemented the recommendations made by the Ombudsman, the fact which was ascertained in the Report of the State on Implementation of the Framework Convention for the Protection of National Minorities by the Council of Europe<sup>13</sup> where it has been stated that there are no legal grounds for the collection of the data pertaining to the nationality of public administration officers and employees and it is thus impossible to establish the participation of members of national minorities in operation of the state authorities and public administration bodies. The general public has access only to the data

<sup>12</sup> [www.pravamanjina.rs/index.php/sr/podaci/dokumenta/-/419-preporuka-slubi-za-upravljenje-kadrovima](http://www.pravamanjina.rs/index.php/sr/podaci/dokumenta/-/419-preporuka-slubi-za-upravljenje-kadrovima)

<sup>13</sup> <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId>

pertaining to the representation of national minorities in the public administration bodies of the Autonomous Province of Vojvodina (65.5% of the employees of Serbian nationality, 14.28% Hungarian, 2.78% Croatian, 1.5% Romanian, 1.75% Montenegrin, 0.77% Rusyn).

The Law on Civil Servants<sup>14</sup> in Article 9 stipulates that “when employing in state authorities, it needs to be secured that the national composition, representation of sexes and the number of persons with disabilities reflect as much as possible the composition of the population.”<sup>15</sup>

### **Cultural Autonomy and the Right to Minority Self-Government**

As it has already been said, cultural autonomy and minority self-government were introduced into the legal and social life in 2002. A more comprehensive regulation of the right to national minority self-government was provided in the Law on National Councils of National Minorities. Minority self-government deals with the fields relevant for preservation of the minority’s cultural identity – education, official use of language, culture and information (cultural autonomy). The essence of minority self-government lies in the concept that members of national minorities directly or through an elected National Council of the national minority, decide on the issues which concern their ethno-cultural identity.

At the latest 2014 elections, national councils of national minorities (minority self-governments) were elected by 21 national minorities: Albanians, Ashkalis, Bosniaks, Bulgarians, Bunjevci, Croatians, Egyptians, Germans, Greeks, Hungarians, Macedonians, Montenegrins, Roma, Romanians, Rusyns, Slovaks, Slovenes, Ukrainians, Czechs, Vlachs and the Association of Jewish Communities. The list of national councils is open, as recognition of the status takes place from election to election. In practice it can occur that a

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<sup>14</sup> [www.coe.int/t/dghl/monitoring/minorities/3\\_FCNMdocs/PDF\\_3rd\\_SR\\_Serbia\\_sr.pdf](http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_3rd_SR_Serbia_sr.pdf)

<sup>15</sup> Official Gazette of the Republic of Serbia, no. 79/2005, 81/2005 – correction, 83/2005 – correction, 64/2007, 67/2007 – correction, 116/2008, 104/2009, 99/2014 and 94/2017).

national minority with the elected national council, which on the next election for minority self-governments fails to fulfil the conditions from Article 2 of the Law on the Protection of Rights and Freedoms of National Minorities, ceases to have its minority self-government unit. This article defines national minority and stipulates objective and subjective criteria for recognition of the status of national minority: a) representative number of members; b) being in minority to the majority population; c) firm bond with the territory of the country; d) differentiating characteristics – language, culture, national and ethnic affiliation, confession; e) readiness of the minority members to preserve and nurture their common identity.

Providing the depopulation tendencies characterising Serbian population, it is possible that small minorities, or those prone to ethnic mimicry, fail to fulfil the condition concerning the size of population and thus become unable to elect their minority self-governments. The lower limit which allows members of a national minority to form their electoral register is 300 adult population members. Thus the Aromanians failed to document the support of 300 adult members of their population and so they were unable to establish their minority self-government unit (Bašić, 2018.a). Even though it may seem that such open definition of national minority has its advantages over enumeration of individual minorities with the state recognised right to national self-government, the aforementioned example evidences that even such definition may cause serious problems. First, even the smallest minorities have the right to the protection and preservation of their ethno-cultural identity, so the size of a national minority's population is not a just criterion for implementation of the right to preservation of the national minority's identity. Second, open definition requires decentralised organisation of minority self-governments. Minority self-governments can be elected on the local level, but also on the level of a single settlement. Such model would enable Aromanians, who were denied their right to minority self-government, and subsequently to preservation of their identity, to establish self-government units only in their places of residence, while Roma, being dispersed all over the country, would be enabled to achieve their full cultural autonomy. Third, cultural autonomy can be asymmetrically organised, as there are national



minorities who lack the capacities to achieve its full scope. Fourth, the open definition promotes artificial ethnic diversities which often represent setback to development.

### ***Education***

The education of national minorities' members is regulated by a number of laws<sup>16</sup> and numerous bylaws. They guarantee equal access to education for national minorities, as well as equal opportunities for education and instruction on all levels and pertaining to all types of education and instruction, without discrimination on any personal basis.

The outcomes of education in national minority languages correspond with the aims of the policy of multiculturalism. Namely, minority self-governments firmly advocate for education in national minority languages before education authorities, simultaneously neglecting the importance of the integrative bilingual education. Contributing to such positions of minority self-governments is Article 5 of the Law on Fundamentals of Education System<sup>17</sup> which stipulates obligatory instruction in languages of national minorities, while it reduces bilingual education programs to a possibility which needs to be regulated by a separate law.

The consequence of this is that majority of the students who attend classes in a national minority language at the end of their primary school education do not possess the knowledge of the majority language at the level which enables their social integration. Multiculturalists emphasise that the organisation of bilingual classes would also attract those minority students who attend school in Serbian, thus strengthening the policy of protection of national minorities' identities. Furthermore, bilingual education would provide opportunities for students whose first (mother)

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<sup>16</sup> Law on Fundamentals of Education and Instruction Systems, Law on Pre-school Education and Instruction, Law on Primary Education and Instruction, Law on Secondary Education and Instruction, High School Law, Law on higher Education, Law on Education of Adults, Law on Education Textbooks and Other Teaching Aids, Law on Student Standard.

<sup>17</sup> Official Gazette of the Republic of Serbia, no. 88/2017 and 27/2018 – other laws.

language is Serbian, to learn the language of the community in which they live, thus increasing the chances of social integration. Within the education system, optional classes of minority languages with the fundamentals of national cultures are organised for the pupils attending classes in Serbian. The attendance of these classes becomes obligatory once a parent, or a student opts to take them.

Legislation also regulates collection and recording of the data relevant for implementation of education in a language of a national minority.<sup>18</sup> The data concerning nationality of children, pupils and students are collected with the expressed clarification that declaring one's nationality is not obligatory. The educational institution in which education or instruction work is organised issues certificates in Serbian, in Cyrillic script, as well as in the language of the national minority in which the educational program was implemented.

Minority self-governments are delegated with the competences concerning the right of making decision, or participating in the decision-making process pertaining to the issues relevant for the protection of their national identity. In line with such commitment, representatives of minority self-governments are included in: a) the National Education Council for Preschool, Primary and Secondary General and Artistic Education and Instruction (one minority representative is elected, from the list of candidates submitted together by all minority self-governments); b) the National Council for Higher Education, in case the classes are partially, or entirely held in a national minority language; c) administrative body of a primary, or secondary school, where educational programs are implemented in minority languages, or which are confirmed by a competent authority to be particularly important for a national minority (minority self-government proposes three representatives to the local self-government); d) boards of parents in the institutions in which national minority students are being educated.

<sup>18</sup> Law on the Fundamentals of Education and Instruction System, Law on the Protection of Personal Data (Official Gazette of the Republic of Serbia, no. 97/2008, 104/2009 – other law, 68/2012 – decision by the Constitutional Court and 107/2012), Rulebook on the Contents and the Manner of Keeping Records and the Issuance of Public Certificates in Primary Schools (Official Gazette of the Republic of Serbia, no. 55/2006, 51/2007, 67/2008, 82/2012 and 8/2013), etc.

In 2015/16, preschool education was organised in seven minority languages (Albanian, Bosnian, Hungarian, Romanian, Rusyn, Slovak and Croatian) in 40 units of local self-government, within 43 preschool institutions providing education to 4,035 children. Bilingual preschool education is implemented in Serbian and 8 minority languages (Albanian, Bulgarian, Hungarian, German, Roma, Romanian, Slovak and Croatian) in 14 local self-government units<sup>19</sup> within 18 preschool institutions, covering the total of 39 groups and 443 children.

According to the data of the Ministry of Education, Science and Technological Development for the curricular 2016/17, 526,762 pupils attended primary schools in Serbian, while 34,740 pupils attended primary school in 8 national minority languages (Albanian, Bosnian, Bulgarian, Macedonian, Hungarian, Romanian, Rusyn, Slovak and Croatian). In the same year, optional classes of a Native Language with elements of the national culture were attended by 11,509 pupils in 322 primary schools, within 150 local self-government units. These classes were held in the aforementioned languages of national minorities, but also in Czech and Ukrainian language, as well as in the Vlach and Bunjevci dialects.<sup>20</sup> The classes in the languages of national minorities require a great number of additional textbooks. The situation should improve upon the adoption of the new Law on Educational Textbooks and entry into force of the Memorandum of Cooperation concerning obtainment of the textbooks for primary school education in the languages of national minorities, which has been entered into by the Ministry of Education, Science and Technological Development and Institute for Textbooks for one party and eight minority self-governments for the other. According to the Ministry of Education's Catalogue of Textbooks<sup>21</sup> some 50 Albanian textbooks were selected for primary school education, nearly 70 Bosnian textbooks, over 130 Hungarian textbooks and around 120 textbooks in Slovak, Romanian and Rusyn languages.

<sup>19</sup> Alibunar, Bačka Palanka, Bečej, Vršac, Kikinda, Kovačica, Kovin, Kruševac, Novi Sad, Odžaci, Pančevo, Plandište, Sombor and Subotica.

<sup>20</sup> Report on Implementation of the Action Plan for Implementation of Rights of National Minorities, Ministry of Education, Science and Technological Development.

<sup>21</sup> [www.mpn.gov.rs/wp-content/uploads/2016/05/katalogudzbenika.pdf](http://www.mpn.gov.rs/wp-content/uploads/2016/05/katalogudzbenika.pdf)

In 2016/17 curricular year, in secondary public schools, 243,532 (96%) of students attended their classes in Serbian in 9,419 regular and 759 combined<sup>22</sup> classes within 518 schools. The classes in 8 minority languages were attended by 9,741 students in regular and combined classes, within 54 schools. The majority of these students, 5,511 of them, attended classes in Hungarian, while Albanian classes were attended by 2,888 pupils.<sup>23</sup> According to the data concerning the curricular year of 2015/16, classes of the subject entitled *Native Language with Elements of the National Culture* were organised in secondary schools in five different languages (Bulgarian, Hungarian, Romanian, Rusyn and Slovak), in 18 local self-government units, 28 secondary schools, 84 classes and for 1,167 students.

In higher education institutions, classes in minority languages were organised in Albanian and Hungarian, in the faculties, or the departments thereof in the areas in which these populations traditionally reside. Faculties and vocational colleges provide education programs for preschool, primary and secondary school teachers in Hungarian, Romany, Romanian, Rusyn and Slovak. Faculties of the Universities of Belgrade, Kragujevac and Novi Sad have departments for studying: Albanian, Bulgarian, Hungarian, German, Romanian, Rusyn, Slovak, Ukrainian and Czech languages, while the University of Novi Pazar also has the department of Bosnian language.<sup>24</sup>

### ***Official Use of Language and Script***

The Law on Official Use of Languages and Scripts<sup>25</sup> defines official use of a national minority language as: a) use of a national minority language in administrative and court proceedings and taking these proceedings in a national minority language; b) use of

<sup>22</sup> A combined class consists of the pupils of two or more grades.

<sup>23</sup> Report on Implementation of the Action Plan for Implementation of Rights of National Minorities, Ministry of Education, Science and Technological Development, 2017.

<sup>24</sup> The Fourth Periodical Report on Implementation of the European Charter for Regional and Minority Languages, Government of the Republic of Serbia, Belgrade, 2017.

<sup>25</sup> Official Gazette of the Republic of Serbia no. 45/91, 53/93, 67/93, 48/94, 101/2005 – other law and 30/2010.

a national minority language by the bodies which exercise public authorities in communication with citizens; c) issuance of official public certificates, keeping official records and personal data collections in the languages of national minorities and acceptance of documents and certificates in these languages as valid; d) use of national minority languages on voting ballots and material; e) use of national minority languages in operation of representative bodies; f) writing of the names of the bodies exercising public authority, names of local self-government units, settlements, squares, streets and other toponyms in the language and script of the national minority, which is in equal official use in the local self-government unit, simultaneously abiding tradition and spelling.

Language and script of a national minority are introduced into equal official use in a local self-government unit: a) in case members of the national minority traditionally live on its territory and b) in case the share of certain national minority community amounts to 15% of the total population, according to the data obtained by the latest population census. Fulfilment of the second condition assumes the obligation on the part of the local self-government unit to introduce the national minority language into official use. In practice, there was a famous case of councillors in the municipality of Priboj who, from 2002 to 2011, were refusing or avoiding to vote on the introduction of the Bosnian language into official use, while the competent state authorities failed to undertake legally stipulated measures against them (Bašić, 2018). In consequence, the legal obligation to introduce Bosnian language into official use ceased to be effective after 2011 Population Census, as the number of Bosniaks in the municipality fell to less than 15%.

Members of national minorities have the right to address public authorities in their own language, as well as to receive answer in the same language. However, communication with public authorities in their own language is guaranteed to the members of the national minorities which make at least 2% of the total population of the Republic of Serbia according to the latest census. The law stipulates that they do not address public authorities in their language directly, nor do they receive a direct answer, but that they rather do that via a local self-government unit in which the language is in official use, with the obligation of the local self-government unit

to provide interpretation and cover the expenses of the translation of a communication addressed to a public body, as well as translation of this body's answer.

The Law on Official Use of Languages (Article 12) stipulates that first instance administrative, criminal, civil, or any other proceedings in which it is decided on the rights and obligations of citizens, can also be taken in languages of national minorities. The condition for implementation of proceedings in a language of a national minority is that the language of the national minority is in official use in the body, or organisation before which the proceedings is taken. The manner in which the language of national minority in which proceedings are taken is being determined is legally stipulated and includes three different modalities: a) in case the proceedings involve a party belonging to a national minority, the proceedings are, upon a request by the party, taken in the national minority language which is in official use in the body, or organisation before which the proceedings are taken; b) in case when the proceedings include a number of parties belonging to different national minorities using different languages, the proceedings are taken in one of the languages which is in official use in the body or organisation before which the proceedings are taken; c) in case the parties cannot reach agreement pertaining to the language in which the proceedings will be taken, the language of the proceedings shall be determined by the body, or organisation before which the proceedings are taken (Bašić & Pajvančić, 2015, 99). Under certain conditions, it is also possible for second instance proceedings to be taken in a national minority language.

Writing of the names of settlements and other geographical names, names of streets and squares, bodies and organisations, traffic signs, public notices and warnings and other public inscriptions in languages of national minorities is guaranteed in the regions and environments in which these languages are in official use. The law also regulates the use of national minorities' languages and scripts in writing the names of companies, institutions, or other legal entities and businesses. This right can be implemented providing that the national minority language is in official use in the local self-government unit in which the legal entity's

headquarters are located, or when the national minority language is in official use in the legal entity's place of business.

Finally, due to the fact that it directly influences official use of national minority languages and scripts, it needs to be noted that national minority members have personal rights to freedom of choice and use of their personal name and names of their children, as well as the right to enter these names into all official documents, official records and personal data collections in line with the rules of their language and script. When demanded by a national minority member, public documents can be issued in the national minority's language.

There are ten national minority languages which are officially used in the Republic of Serbia: Albanian, Bosnian, Bulgarian, Croatian, Czech, Hungarian, Macedonian, Montenegrin, Romanian, Rusyn and Slovakian. Albanian is officially used in 3 local self-government units, Bosnian in 4, Bulgarian in 3, Croatian in 5, Hungarian in 31, Macedonian in 3, Montenegrin in 1, Romanian in 10, Rusyn in 6 and Slovakian in 12.

## ***Culture***

Among other things, the Draft Strategy for Cultural Development in the Republic of Serbia until 2027 indicates that Serbia “treats its contemporary identity as a cohesive and inclusive social factor, which is reflected in the common heritage of all Serbian citizens and intercultural dialogue on all levels,” but also that the dimensions of Serbian culture are based on Slavic, Byzantine, ancient Balkan, heroic, Enlightened-European and democratic contact values.<sup>26</sup>

The Draft Strategy has been developed based on the dominant monocultural model, while the cultures and identities of the national minorities are hardly ever referred to. In this spirit, it is also evident the resolve to found this cultural development on ethno-cultural, rather than state identity.

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<sup>26</sup> [www.kultura.gov.rs/docs/dokumenti/nacrt-strategije-razvoja-kulture-republike-srbije-od-2017--do-2027-/-nacrt-strategije-razvoja-kulture-republike-srbije-od-2017--do-2027-.pdf](http://www.kultura.gov.rs/docs/dokumenti/nacrt-strategije-razvoja-kulture-republike-srbije-od-2017--do-2027-/-nacrt-strategije-razvoja-kulture-republike-srbije-od-2017--do-2027-.pdf)

Among the values believed to be of general interest to culture, the Law on Culture<sup>27</sup> also lists the discovery, creation, studying, preservation and presentation of national minority cultures. The development of cultural creation and cultural expression of national minorities' members is included in this Law among the strategic directions of cultural development. However, multiculturalism is not among the principles that the cultural policy is based on.

According to Article 5 of the Law on Culture, national minority self-governments "ensure the implementation of cultural policy of respective national minority" and "participate in the decision-making process related to their culture, establish cultural institutions and other legal entities in the field of culture." Furthermore, Article 16 of the Law regulates composition of the National Council for Culture and stipulates the election to its membership of two national minority members upon the proposal of national minority councils.

National Council of National Minority suggests (to the respective minority council) at least one member for the board of directors and supervisory board of an institution with a special relevance for preservation, advancement and development of cultural specificity and preservation of the national identity of the national minority. In cases where more than one national minority councils give a proposal for the member of the board of directors, the proposal shall be submitted jointly by all interested national minority councils. Finally, in case of transferring founder rights to the National Minority Council, the act on transferring founder rights shall determine the method of appointing the supervisory board members.

In spite of the fact that national minorities are heirs, or founders of a great number of cultural properties, the Law on Cultural Property<sup>28</sup> fails to adequately regulate representation and participation of minority self-government units in the decision-making process concerning the cultural property relevant for their culture and identity.

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<sup>27</sup> Official Gazette of the Republic of Serbia, no. 72/2009, 13/2016 and 30/2016 – correction.

<sup>28</sup> Official Gazette of the Republic of Serbia, no. 71/94, 52/2011 – other law and 99/2011 – other law.



## ***Information***

The Law on Public Information and Media<sup>29</sup> regulates information in national minority languages as a public interest implemented in three different ways: a) via public services; b) through the right of minority self-government units to found institutions and business associations with the purpose of implementing the right to public information; and c) by co-financing projects, upon competitions in the field of public information.

Public interest in the field of public information includes, inter alia, full information of national minority communities in their native language, as well as preservation of the cultural identity of the national minorities living on the territory of the Republic of Serbia.

Despite the fact that the privatisation of national minority media was finalised with no major consequences on information of national minority communities, the public information service of Radio Television of Serbia failed to enable national minorities to be appropriately informed in their respective native languages and scripts. The credit for maintaining the amount of media contents, as well as quality of the program in national minority languages goes to Radio Television of Vojvodina which, as a public service of the Autonomous Province of Vojvodina, fulfils its obligation of broadcasting program in national minority languages. According to the Report of the Ombudsman of the Republic of Serbia on Information in National Minority Languages after the 2016 Privatisation of Media<sup>30</sup> Serbian national service failed to respond to “what was for years demanded by the national minorities that mainly live on the territory of Central Serbia, for the RTS to enable them equal access to information in their native languages, as national minorities in Vojvodina are enabled through radio and television programs of the provincial public service.”

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<sup>29</sup> Official Gazette of the Republic of Serbia, no. 83/2014, 58/2015 and 12/2016 – authentic interpretation.

<sup>30</sup> [www.pravamanjina.rs/images/stories/Izvestaj\\_o\\_informisanju\\_na\\_jezicima\\_nacionalnih\\_manjina\\_nakon\\_privatizacije\\_medija.pdf](http://www.pravamanjina.rs/images/stories/Izvestaj_o_informisanju_na_jezicima_nacionalnih_manjina_nakon_privatizacije_medija.pdf)

The situation is more complicated when it comes to the status and sustainability of the media in languages of national minorities founded by minority self-government units. The problem lies in the fact that the majority of printed and electronic media in national minority languages are not sustainable and their operation requires affirmative measures, i.e. additional financial support by the state, province and local self-governments. In spite of the fact that the Law on Information and Media explicitly envisaged public call as a manner of media financing, the Provincial Secretariat for Culture and Information adopted the decision on subsidising of the minority self-government units which founded institutions producing media contents. It may be that the Provincial Secretariat does not act in line with the law, yet its actions are just, as the media in minority languages have managed to survive due to these subsidies. The aforementioned Ombudsman Report provides an illustrative example of the funds necessary for publishing a single issue of Rusyn newspaper "Ruske slovo" being four times higher than the total budget of the Rusyn self-government.

Co-financing upon winning funds in competitions for projects has created the biggest confusion, as these competitions are not implemented transparently, while no clear and measurable criteria for project acceptance have been defined. Furthermore, the opinion of minority self-government unit pertaining to proposed projects should not be decisive for allocating funds. The general confusion is contributed by the fact that calls for co-financing of projects can be issued at any point during the year, which promotes the sense of insecurity of minority media founders. According to the aforementioned Ombudsman Report, by the end of 2016, out of 68 multinational local self-governments, only 28 made decisions to co-finance projects based on implemented competitions. In other words, 40 local self-government units did not select any media related projects, while 17 failed to publish calls for proposals. What may be encouraging, however, is the fact that in 2016, 49 out of 68 multinational local self-government units allocated almost 390,000,000RSD to co-finance the production of media contents in the public interest and in national minority languages.

## Financing Minority Self-Government and Cultural Autonomy

The Law on National Councils of National Minorities (Articles 114 and 115) stipulates that the funds necessary for financing national minority councils are obtained from the budgets of the Republic of Serbia, Autonomous Province of Vojvodina, local self-government units, as well as through donations and other sources of income. Article 119 of the Law also envisages foundation of the Budget Fund for National Minorities. By mid-April 2018, this Fund has not been founded.

The amount of the funds obtained out of public resources allocated for operation of national minority councils is determined each year by the Law on State Budget of the Republic of Serbia, as well as by the decisions adopted pertaining to the budgets of AP Vojvodina and local self-government units.

The funds secured in the budget of the Republic of Serbia are allocated in such way that 30% is allocated equally to all registered national minority councils in the Republic of Serbia, while the remainder of the resources (70%) is allocated proportionately to the number of the national minority members represented by the council. A half of the remaining resources (35%) is allocated to national minority councils proportionately to the share of the national minority in population total according to the results of the latest population census. Other half of the remaining funds (35%) is divided in four, one part for each field, in line with the point-based system. The point-based system defines the criteria in the fields of culture, education, information and official use of language and script, as well as the allocation of points for each of the criteria. Total number of points serves to calculate the share of individual national councils in allocation of the funds.<sup>31</sup>

According to the Regulation, a national minority self-government unit (national council) is awarded 50 points if it has

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<sup>31</sup> Regulation of the Process of Funds' Allocation out of the Budget of the Republic of Serbia for Financing Operation of National Councils of National Minorities, Official Gazette of the Republic of Serbia, no. 95/2010 and 33/2013.

founded an institute for culture, or a publishing house in a minority language, 20 points are awarded for publication of a journal in a minority language, while 5 points are awarded to those who publish multilingual journals. If a national council is the founder of a company which publishes a daily newspaper in a minority language it shall be awarded 70 points, another 50 points for a weekly, etc. Even though they promote integrative multiculturalism and they are much harder to prepare, bilingual periodicals are awarded five times less points. Each national council which has at least one national minority institution in the language and script of respective national minority is awarded 50 points. Finally, 10 points are awarded for each preschool, primary school and secondary school class in which education is provided in the respective national minority language. The same number of points is awarded for each bilingual class.

The Autonomous Province of Vojvodina allocates funds in a similar way to the national councils of the minorities the number of which on the territory of Vojvodina makes more than a half of the total number of that minority's members in the Republic of Serbia, or to the national councils of those national minorities the communities of which on the territory of Vojvodina amount to more than 10,000 members according to the latest population census.<sup>32</sup> The criteria for the allocation of funds include the size of a minority population (30%) and the number of institutions in the field of cultural autonomy (70%).

The resources secured in the budgets of local self-government units are allocated, in line with a decision by the competent authority of the local self-government unit, to the national minority self-governments which represent the national minorities the communities of which make at least 10% of the total population of the local self-government unit, or the national minorities the language of which is in official use on the territory of the local self-government unit.

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<sup>32</sup> Decision on the Manner and Criteria of Allocating Budget Funds of the Provincial, Official Journal of the Autonomous Province of Vojvodina, no. 40/2012.

## **Conclusion: The Recognised Rights Do Not Guarantee Social Integration of National Minorities**

It is an undisputed fact that the Republic of Serbia has invested momentous political and legal efforts with the purpose to regulate the status of national minorities, but it is also true that the policy of multiculturalism does not correspond to the multiethnic nature of the country. The main indicators of such condition are the segregational social relations. Present day Serbia is a sum of a number of monocultural ethnic communities living side by side. It is often quoted that they do not know much about each other and that mutual prejudices result in ethnic distancing and discrimination.

The state interest assumes social stability and in multiethnic societies it is achieved by erasing the borderlines between ethno-cultural groups. In the political sense, this is achieved through decentralisation, different kinds of autonomy, transfer of competences to minority self-government units, adjustments to the election and political systems, etc. On the level of Culture, social integration of minorities is promoted, while limitrophe areas are created between different cultural groups. The means to achieve this include: multilingualism, the sense of societal security and intercultural exchange.

The policy of multiculturalism, implemented in Serbia without a clear strategic vision since 2001, has managed to produce adverse effects. Selective implementation of solutions borrowed from the multicultural policies of the neighbouring countries, especially the Republic of Hungary, as well as the exclusive attitude of the majority towards national minorities<sup>33</sup> have contributed to the establishment of a system which does not favour all national minorities equally. "More" rights are granted to numerous,

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<sup>33</sup> The will of the majority is made absolute in the political discourse of the ruling majority and is reflected in the attitudes of the citizens. Thus, we have a somewhat larger number of those who believe that the will of the majority should always prevail, even over the rights of minority groups, than those disagreeing with such notion (39.3% against 34%). When the attitude towards national minorities is concerned, national minority members react to such position quite differently as: 89.2% of Bosniaks, 68.5% of Croats, 62.5% of Hungarians, 66.7% of Roma disagree with such position. (Bašić & Lutovac, 2017)

culturally and territorially homogeneous national minorities, while the national minorities the populations of which are less numerous and which actually require more protection, remain deprived of the majority of rights concerning the protection of their identity. The condition is further deteriorated by the partocratic operation of the state and its attempts to control social processes through “representation of political parties’ members” in the public bodies such as national councils. The influence of political parties on the bodies the function of which is based on autonomy and self-government renders meaningless the essence of the policy of multiculturalism. Finally, the attempts of minority self-government units, interconnected with the interests of political parties, to preserve centralised organisation and control the electorate within minority communities, represent a crucial obstacle to integrative and effective policy of multiculturalism.

The present process of amending the regulation concerning the policy of multiculturalism evidences the lack of will, in both national minorities and the state, to effect substantial and meaningful changes. The political parties of certain national minorities and their national councils have managed to strengthen their negotiating position over time and they are fundamentally disinterested in any changes that may disturb or weaken their leverage. The countries in the region that the most numerous national minorities in Serbia ethnically originate from, are generally satisfied with the existing condition where impermeable monocultural entities coexist on Serbian territory. The draft amendments of the most important legislation, which should provide foundations for the policy of multiculturalism, further evidence the lack of the state’s will to make radical changes. Time will tell what the consequences of such situation will be.

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**Antonija Petričušić**

PhD, Assistant Professor at the Faculty of Law, University of Zagreb

**Siniša Tatlović**

PhD, Professor at the Faculty of Political Science, University of Zagreb



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# In Search of Multicultural Elements of the Croatian Minority Policy: Threatening Assimilation and Cultural Segregation

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## Abstract

This chapter examines multicultural elements of the Croatian minority policy, arguing that minority policy that acknowledges the postulates of multiculturalism should result in effective equality and integration of national minority members in the society and should not result in segregation and/or assimilation. The chapter furthermore assesses if minority rights laws and minority policy result not only in the preservation and protection of minority cultures, but also if they result in tolerance and acceptance of national minority members by the wider society. In doing so, this chapter critically examines six segments of the minority policy: (i) right to education of national minorities in minority languages and scripts, (ii) linguistic rights, (iii) media rights, (iv) political participation of national minorities in the parliament and in local and regional self-government units, (v) consultative role of national minority councils in decision making at the regional and local levels of governance, and (vi) representation of national minorities in the public sector.

*Keywords:* national minorities, group-differentiated rights, Croatian minority policy, cultural autonomy of national minorities, participation of national minorities in public life

## Introduction

■ The Croatian minority policy was not designed in the time of peace to address the specific needs of ethnic groups as a result of their cultural specificities and differences, but rather as a conflict

resolution measure undertaken in 1990, when the *Constitutional Law on Human Rights and Freedoms and the Rights of Ethnic and National Communities or Minorities in the Republic of Croatia* was passed.<sup>1</sup> Later, the *Constitutional Law on the Rights of National Minorities* that amended the former chief piece of minority legislation in late 2002, came as a post-conflict measure with the main aim of accommodating the biggest national minority, i.e. the Serb minority, in a deeply divided society following the termination of the Homeland War fought from 1991 to 1995 with a part of the rebellious Serb minority which opposed the country's independence from the former Yugoslavia, that was backed by the Yugoslav People's Army and neighbouring Serbia. This conflict claimed about 20,000 victims and significantly impaired the inter-ethnic relations between the Croats and the Serbs.

As multicultural policy should have as its objectives the preservation of cultural differences and identities among different groups, group-differentiated rights, i.e. the rights that allow for accommodation of national minority groups in the Croatian society, will be examined. The chapter will initially present how cultural autonomy has been foreseen in the minority legislation and how it lives in practice. In this part of the chapter we will scrutinise the legal provisions that prescribe the right to education, linguistic rights and the right to access media, and we will assess the outcomes of the minority policy's element that fosters the cultural autonomy of national minorities. Subsequently, the chapter will assess the effective participation of national minorities in public life, both at the level of the central government and at regional and local levels, as well as through the work of national minority councils, i.e. consultative bodies that should foster dialogue between national minorities and local and regional governmental authorities, and by examining the effectiveness of the representation of national minorities in the public sector. In order to assess minority rights laws, an extensive review of minority legislation and related literature has been conducted. In addition, the information on the implementation of the Croatian minority policy was

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<sup>1</sup> A comprehensive list of all legal provisions which regulate the rights of national minorities in Croatia and that are mentioned in the present chapter is attached as an annex to this chapter.

retrieved from the Ombudswoman's reports, from state reports on the implementation of the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages, from the opinions of the Advisory Committee on the Framework Convention for the Protection of National Minorities and the Committee of Experts on the European Charter for Regional or Minority Languages, as well as from numerous reports prepared by the European Commission prior to the accession of the country to the European Union in July 2013. This methodological approach should assist in providing a clearer idea on the extent to which multiculturalism has been reflected in both the Croatian minority policy and in the society.

### **Gradual Development of the Croatian Minority Policy**

In 1992, the Republic of Croatia was recognised as a sovereign and independent state. Prior to that, it was a federal unit of the Socialist Federal Republic of Yugoslavia (SFRY). Croatia was in a state of war from 1991 to 1995, after it was attacked by the Yugoslav army and paramilitary forces organised by a part of its Serb population, that, at that time, constituted 12% of a total population. The Homeland War resulted in a large number of refugees and internally displaced persons and a severe destruction of both public and private property. The protection of national minorities (who, at that time, were called 'nationalities') is a tradition which dated back to the time of the SFRY. Back then, legislative guarantees as well as societal practice allowed for the preservation of cultural distinctiveness of persons belonging to 'nationalities' (Tatalović 2001). Such a tradition was inherited by Croatia and further developed upon declaring independence in 1991. When Croatia became an independent state, it kept the protection of the autochthonous national minorities (such as the Hungarian, Italian, Czech, Slovak, Ruthenian, Turkish, Roma, etc.) and extended it to ethnic communities that used to be the constituent 'nations' of the former state (Albanians, Bosniaks, Montenegrins, Macedonians, Slovenes, Serbs).

However, as a consequence of the 1991-1995 war fought for Croatian independence, the ethnic picture of this country significantly changed. The absolute number of members of national minorities declined, with the exception of the Albanian, Roma and German minorities (Tatalović 2001). The greatest decline was recorded among the Serbian minority members, which fell from the registered 12.2% of the total population in 1991 to 4.54% in the 2001 Census. However, Croatia is a multicultural and multiethnic state since its citizens are declaring a number of distinctive national identities. Along with Croats, who are the titular nation, its citizens include Serbs, Czechs, Slovaks, Italians, Hungarians, Jews, Germans, Austrians, Ukrainians, Rusyns, Bosniaks, Slovenians, Montenegrins, Macedonians, Russians, Bulgarians, Poles, Roma, Romanians, Turks and Vlachs. National minorities currently make up 7.5% of the population, the most numerous being the Serb national minority, which today accounts for 4.5% of the population.

Croatia was first conditioned by the international community, in early 1990s, to develop its minority legislative framework in return for the international recognition of the country's sovereignty and independence (Tatalović 2005; Petričušić 2017). Such practice of international conditioning regarding the implementation of minority rights in post-communist Europe was labelled by Kymlicka as "internationalisation of minority rights issues" (Kymlicka 2002: 2). This condition was eventually elaborated in the 1992 *Constitutional Law on Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities*. Again, under the demand of the international community, primarily the Council of Europe, but also the OSCE and the European Union, a new minority legislation was developed, resulting in a new *Constitutional Law on the Rights of National Minorities* (hereinafter: CLNM) which was passed in late 2002. The CLNM has incorporated all contemporary minority protection standards as set by the Council of Europe's Framework Convention for the Protection of National Minorities (hereafter: FCNM) and other legally binding international minority law instruments (Petričušić, 2004, 2017; Tatalović, 2014; Babić 2015).

The idea that minority cultures represent an integral part of the cultural heritage of the society was likewise justified by the judgement of the European Court for Human Rights (hereinafter:

ECtHR) back in 2001 in the case *Chapman v. UK*. The ECtHR judgement held that protecting specific identities and cultures is beneficial not merely for persons belonging to national minorities but also for the society as a whole. The ECtHR held that the special needs of minorities and an obligation to protect their identity should be put in place “not only for the purpose of safeguarding the interests of the minorities themselves but to preserve a cultural diversity of value to the whole community.”

Identity and cultural politics have been theoretically explained by different authors in order to describe and justify the different policies of cultural pluralism that the states concerned with people’s cultural differences formulate and pursue (Čačić-Kumpes 2004: 149; Mesić 2006). The multiculturalist outlook of the Croatian minority policy can be justified by equality-based and identity-based arguments. Indeed, apart from constitutional provisions regarding equality and non-discrimination, there are a number of legal guarantees in place that prescribe the equality of all persons before the law, and that foresee that discrimination in law and practice on the grounds of race, language, religion, national or social origin shall be eliminated and effectively sanctioned. The identity, culture and lifestyle of persons belonging to national minorities in Croatia is preserved and protected through different measures focusing on the preservation of ethnic, cultural, linguistic or religious identities of minority members and communities.

Croatia applied for EU membership in 2003 and the European Commission recommended that it be accepted as an official candidate in early 2004. The status of a candidate country was granted to Croatia by the European Council in mid-2004. Accession negotiations commenced in October 2005 and were finalised in June 2011. Croatia signed the Treaty of Accession on 9 December 2011, which was consequently ratified by all EU Member States and Croatia, and on 1 July 2013, Croatia became the 28<sup>th</sup> EU Member State. In the course of the EU accession, the European Commission identified minority rights protection, prosecution of war crimes, and return and reintegration of refugees as areas that required additional reform efforts on the part of the government (Benedek et al. 2012; Keil and Arkan 2014, Petričušić 2017). Unlike in previous EU enlargements - when the pre-accession criterion regarding

'respect for and protection of persons belonging to minorities' presumed the development of legislative and institutional framework for the integration of national minorities - the return of refugees and restitution of their property was set as a pre-accession criterion for the accession of Croatia to the EU (Mesić and Bagić 2011; Mesić and Bagić 2016; Petričušić and Mikić 2013). In this way, the EU accession process should have enhanced the return of refugees of Serbian origin who fled the country following the liberating military operation undertaken by the Croatian authorities in the summer of 1995. Indeed, in the course of the EU accession, the implementation of minority rights, particularly of the Serb minority, "became more inclusive, resulting in the gradual expansion of the scope of rights granted to national minorities" (Koska, 2011: 51-52, Petričušić 2017: 309-316) However, despite the systematic steps taken by the authorities to ensure adequate conditions for the return of refugees, the return process, at best, can be assessed as partial. By December 2015, the authorities and the UNHCR registered 133,242 Serbian minority returnees to Croatia - more than a half of those who had fled the country before June 2015, while 32,855 refugees from Croatia remained registered in the region (Commissioner for Human Rights of the Council of Europe 2016: 12).

Another approach to enhancing minority protection and preservation of minority cultures is to conclude bilateral agreements on the protection of national minorities with neighbouring countries (Lantschner and Medda 2002). Croatia signed and ratified bilateral agreements concerning minority rights with Italy and Hungary in 1995 and 1996 respectively. The bilateral agreement with Serbia and Montenegro (then still a single country) on the protection of the Serbian/Montenegrin national minority in the Republic of Croatia and the Croatian national minority in Serbia and Montenegro was eventually signed in 2004 and entered into force in 2005. In 2008, a bilateral agreement on mutual protection of national minorities was signed with Macedonia and in 2009 with Montenegro. Bilateral agreements with Slovenia and Bosnia and Herzegovina are not likely to be signed, because the Croats do not have a national minority status in these countries.

The aim of a minority policy should be to allow for equality and non-discrimination of all citizens by securing the resources

enabling ethnic minority groups to pursue their identity and cultural differences, and by providing their integration in the society. The Croatian minority policy does grant a number of rights to ethnic groups that are recognised as national minorities and pursues difference-sensitive policies in the fields of language, culture and education, along with special representation rights in the political community. The first set of rights aims at preserving the identity of individuals belonging to national minorities. Theorists of multiculturalism have argued that such solutions are consistent both with the equality of all citizens and with freedom, as they place all citizens on equal footing in terms of access to culture, and also allow all citizens access to their own culture (Kymlicka, 1995: 27-30). The second set of rights granted to persons belonging to national minorities in Croatia addresses under-representation of national minority members in state institutions and in institutions of political power (i.e. the parliament and local and regional assemblies). Proponents of multiculturalism argue that guaranteed seats for minorities in the parliament or other representative bodies can be introduced as a measure that assures minority representation in political decision-making (Kymlicka, 1995: 131-152). However, they also warn that the measure of guaranteed seats does not necessarily ensure that the group's interests or perspectives are then indeed 'represented' (Kymlicka, 1995: 149). Susan A. Banducci and Jeffrey A. Karp (2008: 65) consider however that such special accommodation measure of reserved seats "may actually serve to create resentment among the non-minority population and also lead to resentment among the various ethnic groups."

## **Cultural Autonomy of National Minorities**

The rights of persons belonging to national minorities enshrined in the CLNM, which they may exercise individually or jointly with other persons belonging to the same or other minority, are: the right to private, public and official use of their language and script, the right to use symbols and insignia, the right to observe events and commemorate persons of importance to the

historical and cultural identity of the national minority, the right to education in the national minority language and script, the right to religion, expression of a religious worldview, the right to form religious communities, the right to association, and the right to access to public media. Taken as a whole, these rights are recognised as the set of rights to cultural autonomy and their aim is to assure the preservation of a particular minority culture and specific identity traits of members of national minorities (Jakešević 2013). Besides the CLNM, there are two additional legislative acts that strengthen the use of minority languages in Croatia: the Law on the Use of Languages and Scripts of National Minorities, which prescribes the equality of minority languages and scripts with the Croatian language and Latin script in the administrative and legislative procedures at local and regional levels. and the Law on Education in Minority Languages, which sets the conditions for education in a national minority language and script (Crnić-Grotić, 2002).

## Right to Education

The CLNM and the Law on Education in the Language and Script of National Minorities grant the right to education in the languages and scripts of national minorities, taking into account international law sources that guarantee the preservation of their collective identity through education. The tradition of a publicly funded system of education in national minority languages has a long tradition in the Croatian educational system but it remains segregated, as a rule, attracting a small number of minority pupils and not pupils belonging to other ethnic groups (Babić 2013; Blažević-Simić 2014). Nevertheless, such a system was assessed by the Advisory Committee (2010: 2), the expert body that oversees the implementation of the Framework Convention, as “[a] well-developed system of minority language education” that is “permitting students belonging to national minorities to receive instruction in or of their languages. The number of children attending schools teaching minority language or in minority language remains stable. Textbooks for mother tongue education developed in the



“kin-States” have been approved for use in Croatian schools and efforts have been undertaken at the primary school level to translate textbooks used for teaching other subjects from Croatian into minority languages. Regrettably, no similar efforts have followed at the secondary school level.” In 2010, the European Commission (2010: 14-15) assessed that “[w]ith regard to cultural rights, the education provisions of the Constitutional Law and other laws relevant to minorities are generally continuing to be implemented satisfactorily.” However, in 2011 it stated that “further work is needed in the area of schooling, including implementation of planned general human rights education and in particular a review of the role of schooling in reconciliation efforts through reviewing teaching material and the portrayal of minorities” (European Commission 2011: 13). Education for pupils of Serbian ethnic background has been improving since the termination of the war and armed conflict in 1990s.

In spite of Croatia’s solid track in fulfilling educational provisions for this and other national minorities, the implementation of education rights for the Roma minority has remained a great challenge. There were several cases of segregation in Međimurje County, where Roma minority children were placed in separate classes in local schools. The authorities referred to poor Croatian language skills as an excuse for their segregation of Roma pupils in the Croatian educational system. In addition, the teaching in Roma only classes has been significantly reduced in scope and volume as compared to the officially prescribed curriculum and indeed to the quality of education delivered in the non-Roma classes. Because of such practices, a legal representative of fifteen Roma has filed a complaint to the ECtHR. On 16 March 2010, the Grand Chamber of the ECtHR ruled that the segregation of Roma children in three Croatian elementary schools located in the County of Međimurje into separate classes based on language competencies constitutes unlawful discrimination (Grgić 2012). As a result of this judgement, certain normative amendments were undertaken, inclusion of Roma children into the educational system (from preschool to higher-level educational institutions) has increased, and the number of Roma minority children included in preschool education has significantly risen since the Government covers the costs of preschool education

in integrated classes. All these measures should steadily enhance the educational opportunities for Roma and help the integration and inclusion of the Roma minority in the society.

## Language Rights

Minority languages can be used freely in private and in public and their co-official usage is determined in detail by the *Law on the Use of Language and Script of National Minorities*. There are four criteria for the official use of a minority language and script: the speakers must constitute at least one-third of the population of a local community (municipality or city); or such use results from an international agreement; a local community has prescribed in its statute that a minority language has a co-official status; or, a county has so prescribed in its statute. However, only in two cities (Vukovar and Vrbovsko) and 25 municipalities in Croatia, national minorities are entitled to exercise this right based on their numerical representation (Commissioner for Human Rights of the Council of Europe 2016: 15). If a group of minority language speakers does not meet one of the criteria for the official use of minority languages, while nevertheless representing a sizeable community in a city or municipality, it is up to the local self-government to decide whether or not the language shall be granted equal and official use. One such example is the municipality of Daruvar, where the Czech-speaking population amounts to almost 19% of the total population, according to the figures provided by the municipality itself, and their distribution is concentrated. This is clearly a sizeable community but it falls outside of the scope of the above-mentioned domestic legal provisions, and it took some time for the municipality to grant the co-official status to the Czech language. In such cases, the use of the language is actually subject to the absolute discretion of the local authorities. The Committee of Experts (2008: 35-36) welcomed “the fact that the equal and official status has been granted to the Czech language in parts of the Daruvar municipality.” The Committee of Experts, however, drew attention to the fact that there are no municipalities where the Slovak and Ukrainian languages are in equal and official

use, though these two languages are protected by the Charter for Regional or Minority Languages (hereinafter: CRML). National minority members have the right to use their name in the script of their mother tongue in all official records, as well as to obtain a bilingual identity card in Croatian and in the minority language throughout territory of the Republic of Croatia. Minority languages can also be used in judicial or administrative proceedings, and a party belonging to a recognised minority community must be informed about the right to use his/her language and script. If a party's request to use his/her language and script is not granted, this constitutes a serious procedural error, and represents sufficient grounds for appeal and new proceedings. This protection refers to both civil suits and criminal and administrative proceedings. Nevertheless, in spite of this constitutionally guaranteed right, less than 1% of judicial proceedings are conducted in minority languages. However, the Committee of Experts of the European Charter for Regional or Minority Languages (2010: 10) noted slow overall progress as regards the implementation of legislation concerning regional or minority languages, but warned that "[t]he usage of a minority language in relations with administrative authorities varies from one region to another. [...] The same level of protection is not afforded to other minority languages and scripts in the areas inhabited by persons belonging to other minorities, in particular to the Serbian and the Hungarian minorities."

After the 2011 census results revealed that the Serbs make up 34.87% of the population in the city of Vukovar, a city that was severely devastated by the Yugoslav Army and Serbian paramilitary forces in 1991 in a three-month siege, the central government became bound by the CLNM and the Law on Use of Languages and Scripts of National Minorities to introduce Serbian Cyrillic script, alongside Croatian, as co-official, on the plates of public institutions (court, police station etc.). Vukovar is a symbol of Croatian resistance and more than 1,600 people died during the siege and about 2,500 were wounded, while the shelling of the town destroyed more than 8,000 buildings. Vukovar and the region of Eastern Slavonia were reintegrated into Croatia in 1998 by the Erdut Peace Agreement. The war veteran associations and rightist political parties opposed the decision on the introduction of Cyrillic

script in Vukovar, arguing it should be postponed for at least ten years, and called for a referendum as to whether the provisions of the CLNM providing for the official use of national minorities' languages should be amended by replacing the existing 'one third threshold' with 'a 50% threshold' (Commissioner for Human Rights of the Council of Europe 2016: 14). A series of violent incidents occurred in which the bilingual plates on official buildings in Vukovar were broken by individuals, occasionally by war veterans. In August 2014, the CC dismissed as unconstitutional a request submitted by a war veteran initiative "Headquarters for the Defence of Croatian Vukovar" to hold a referendum on the linguistic rights of national minorities and ordered the City Council of Vukovar to regulate the use of the Serbian language and script "while giving due consideration to the specific circumstances in Vukovar and the needs of the majority ethnic Croat population, while ensuring adequate conditions for respectful and rightful treatment of the Serbian national minority there" (ibid.) In accordance with this CC judgement, the City Council of Vukovar amended its Statute in August 2015 and adopted a decision which temporarily suspended the official use of the Cyrillic script in bilingual plates on any of the municipal institutions, official buildings or street names, providing an option that this decision can be suspended when "the level of tolerance, solidarity and dialogue among the citizens of Vukovar" are satisfied. Although the Ministry of Public Administration requested the CC to decide whether the aforementioned decision of the Vukovar City Council was in conformity with the CC's decision of 18 August 2014, the CC has not yet ruled on that request (Commissioner for Human Rights of the Council of Europe 2016: 14).

Both the Committee of Experts of the European Charter for Regional or Minority Languages and the Advisory Committee have condemned the practice of disrespecting the implementation of the Law on Use of Languages and Scripts of National Minorities by local authorities and suggested pathways for reconstruction of trust among formerly warring sides. The Committee of Experts had recommended in its most recent report (2014: 9) "that Croatia continue its efforts to promote awareness and tolerance vis-à-vis minority languages, in all aspects, including usage of signs and traditional local names with inscriptions in Cyrillic script." The

Advisory Committee (2016: 24) considers that “dialogue and awareness-raising initiatives at local level may be the most appropriate tools for the promotion of cohesion and peaceful co-existence of different cultures and languages.”

## Media Rights

The set of minority rights that refers to cultural autonomy includes access to radio and television programmes which should help national minorities to get acquainted with their history, culture and religion. In order to ensure the rights of national minorities to receive information in their languages and scripts through the press, radio and television, national minority councils, minority representatives and associations are entitled to perform public information activities (i.e. they can issue newspapers, produce and broadcast radio and television programmes, and perform the activity of news agencies). National, regional and local public broadcasters are obliged to promote understanding for members of national minorities and produce and broadcast programmes aimed at informing national minorities in their own languages. Minority associations have the right to participate in the creation of such programmes for national minorities. Resources for these programmes are provided from the state and local and regional self-government unit budgets.

Access to media for national minorities is, in addition to the CLNM guarantees, implemented through the provisions prescribed in the *Law on Media*, the *Law on Electronic Media* and the *Law on Croatian Radio-Television*. However, all these additional legislative sources do not extend or additionally facilitate representation and participation of minorities in media (Kanižaj and Ciboci 2011; Car and Kanižaj 2010). The Law on the Media defines the obligation of the media to promote inter-ethnic tolerance and prohibits dissemination of contents that would be degrading or insulting based on ethnicity. The Law on Croatian Radio and Television stipulates that in the implementation of programming principles, the Croatian Radio and Television shall produce and/or broadcast specific programmes aimed at informing members of national minorities.

The Radio and Television Council is an independent body responsible for granting concessions for carrying out radio and television activities and appears to be the body referred to in that provision. One of the members of the Council is a representative of a national minority. The Law on Electronic media established the Electronic Media Diversity and Pluralism Incentive Fund. Since 2005, the Fund has allocated financial resources on a yearly basis through a public tender for various incentives in electronic media that are, inter alia, fostering inter-ethnic diversity.

The issue of minority access to media was also raised in the course of the EU accession of Croatia and Croatian authorities were warned consecutively that the presence of information in the language and script of national minorities in the media was insufficient. The European Commission (2009: 15) noted “little progress with regard to the production and/or broadcasting of programmes for minorities in their languages by public radio and TV stations, as envisaged under the CLRN.” The authorities subsequently took a number of steps to allow for a greater presence of national minority languages in the media and programmes aimed at informing national minorities in their language in Croatian TV and Croatian Radio programmes. This also pertains to programmes aired at local radio and television stations. However, the activities outlined in the Action Plan appear to be mainly of a cosmetic nature. None of them can substantially improve or change the current practice, since none of the activities foreseen are innovative or aimed at mainstreaming minority topics in public broadcasting or in the mainstream media. The *Law on Media* includes the obligation of the media to promote inter-ethnic tolerance. Although the national media have made progress in meeting this provision, some regional media may still sometimes adopt intolerant or discriminatory speech. The European Commission (2010: 14-15) acknowledged in 2010 that “[n]egative stereotyping of national minorities in the media has decreased. The broadcasting of anti-minority slogans on national television during a football match highlighted the lack of a reflex to condemn such attitudes.”

As a public broadcaster, the Croatian Radio and Television fulfils its obligation to ensure the rights of national minorities to broadcasting in their own language through a special weekly

multinational TV show *Prizma*. It covers the activities of all national minorities' associations and related news. Documentaries, concerts and educational programmes about the traditional customs of national minorities are occasionally broadcast as part of the cultural programme. The Croatian Radio broadcasts several programmes for national minorities. The first channel broadcasts a programme intended for national minorities called "Multikultura" every Saturday, and a by-monthly programme for national minorities "Agora" is aired on Tuesdays. Several local radio stations broadcast in minority languages: Radio Osijek in Hungarian, Radio Danube in Serbian and Radio Daruvar in Czech. In its latest report (2016), the Advisory Committee had reiterated its concern that minority interests are not sufficiently integrated in the mainstream media, underlining the fact that the mainstream media pay attention to the topic of national minorities "only in the case of a particular incident or event, often negative and often evoking international or regional news" (ibid.).

Apart from the programmes aired by the public broadcaster, a number of newspapers in national minority languages and scripts are published by minority associations, and financially supported by the state budget. Obviously, minority media might not be competitive on the open market and therefore require support or even financial subsidies from the state. The publishing activities of national minority associations, being funded by the state budget, often result in quite out-of-date formats and not market-oriented production, not meeting the same professional standards as in the mainstream media (Vilović and Malović, 2006). This subsequently reduces the appeal of these publications even to the readers from national minority communities.

A true integration of minorities into society can happen only if they actively participate in all segments of the social activities, the media being one of them. However, mainstream media, i.e. those that are not specialised in minority topics and that are intended for the general public, do not, as a rule, take into account the ethnic diversity of the Croatian society. In other words, the ethnic composition of the country is often not proportionally represented in media coverage. A study on the coverage of minority related topics in Croatian dailies conducted in the period

from 2001 to 2003 revealed that articles on minorities are predominantly presented as political topics and reported in journalistic forms with hardly any analytical articles (Kanižaj 2003). On the other hand, the study revealed that minority representatives as a rule do not know how to present their issues to the media and are unable to draw attention of the print media to their cultural, social and other activities, which is vital for their full social integration and their positive public image (ibid.)

### **Group Representation of National Minorities in Public Life**

Effective participation of persons belonging to national minorities in public affairs does not only include the affairs relating to the protection and promotion of minority identities, but also involves participation of minorities in decision-making or consultative bodies (Mesić 2013). Palermo and Woelk (2003: 226) argued that “the legal instruments in which the political representation and participation of minority groups are embodied constitute an exception to the equality principle, at least in a formal sense.” They recognised that political representation of national minorities in decision-making bodies constitutes “the choice ... of a political nature” (ibid.). The Croatian legislation has acknowledged an array of rules relating to group representation of national minorities in public life: participation in public life and to advocate their interests at the level of national, regional and local government, a special electoral rule, i.e. a lower electoral threshold, consultative bodies, and minority representation in state administration and judicial bodies, etc.

### **Political Representation of National Minorities in the Parliament and in Local and Regional Self-Government Units**

An electoral system that recognises reserved seats was put in place in order to facilitate the incorporation of national minority group interests through representation in decision-making bodies



and in public life, as well as to promote post-conflict stability. Parliamentary representation of ethnic minority population is acquired through election of eight MPs in a special electoral unit (Tatalović 2001: 101; Baketa and Kovačić 2010; Boban 2011; Tatalović 2016). The Serbian national minority group elects three members, the Hungarian and Italian national minority groups one member each, and the Czech and Slovak national minority groups one member. The Austrian, Bulgarian, German, Polish, Roma, Romanian, Ruthenian, Russian, Turkish, Ukrainian, Vlach and Jewish national minority groups elect one member and the Albanian, Bosniak, Montenegrin, Macedonian and Slovenian national minority groups elect one member in the Croatian Parliament. Eight national minority MPs were coalitional partners of the central-rightist government in the two consecutive governments (2003-2007 and 2007-2011) and again, since 2017, in the current central-rightist government. The centre-left coalition government that was in power from 2011-2015 did not require national minority MPs in the vote of confidence, since minority MPS supported the government of that time but signed no coalitional treaty.

The right to propose candidates as national minority members is granted to political parties, voters and national minority associations (Tatalović 2016). A special electoral rule imposes no limitations (election threshold) for the election of national minority members into the Croatian Parliament, and the candidate with the most votes is elected, which in practice means that national minority groups may gain a parliamentary seat with significantly fewer votes than the majority population candidates (Baketa and Kovačić 2010: 13). In addition to these guaranteed seats, national minority members may be nominated and win parliamentary seats through political parties' lists.

The 2010 amendments to the CLNM (Horvat 2010) granted a dual voting right to national minorities. Firstly, the amendments introduced a double voting right for national minorities constituting less than 1.5% of the population (all but the Serbs), which they exercise first in a special electoral district for minorities, applied nationwide, and secondly in one of their residence. The amendments also foresaw a separate voting mechanism for the Serbs that would assure at least 3 MP seats but also gave them the possibility

of winning the 4th MP seat (this electoral mechanism is known as the premium system). The Serbian politicians legitimised this dual solution for national minorities through their numerical size, saying that this gave them the right to a specially designed electoral system. In spite of the legitimisation provided by those who put forward the amendments, the novelty foresaw that the Serb electoral lists would run in all electoral districts, but each party with a single list across the country (the Law on Elections of Representatives to the Croatian Parliament, prescribes that political parties or independent lists must have a special list for each and one electoral district). Such amended 'bastard' voting mechanism was part of a coalitional share. Namely, the centre-right government led by the Croatian Democratic Union (HDZ), involved the Independent Democratic Serbian Party (SDSS) as coalitional partners. The former government was furthermore supported by all national minority MPs. However, the amended electoral legislation was contested by a number of constitutional complaints that required judicial review of the Constitutional Court (hereinafter: CC). In July 2011, the Croatian CC abolished the dual voting right and outlawed the separate voting mechanism for the Serbian minority. The CC decision prescribed that the "old" voting mechanism remain in place until the Parliament passes new legislation, but that has not happened since.

National minorities in addition have the right to representation in representative bodies in local and regional self-government units. They are guaranteed the right to representation in the representative bodies of the local self-government and representative bodies of the regional self-government. When at least one member of a national minority has not been elected into a representative body of a local self-government based on the general voting right, when this minority represents from 5% to 15% of the population, the number of representation body members for this local self-government will be increased by one member, and the national minority member not elected as the first one on the list based on the proportional success of each list at elections will be considered as elected, unless a special act establishes the appointment of representation body members for a local self-government differently.

In regions where national minority members do not constitute the majority of the population, self-government authorities may determine to elect national minority members into the representative body of these authorities. In addition, the CLNM ensures minority representation in the executive bodies of those municipalities and counties where proportional representation in elected bodies is required. For municipalities, representation is ensured when the minority population exceeds 15% of the total population, while for counties, a minority's total population must exceed 5% of the total population.

The guaranteed representation of national minorities provides for a proportion of seats in the legislative bodies at the level of national, regional and local government that are held by members of national minority groups. However, neither the majority of national minority members nor the non-minority population perceive the electoral system and institutional arrangements on the participation of persons belonging to national minorities in public affairs as just (Baketa and Kovačić 2010; Boban 2011). For national minority members such a mechanism fails to assure national minorities' integration in the political process. On the contrary, it is favourable and opportunistic merely for the narrow national minorities' political elite and leaves ordinary members of national minorities out of reach of the political power. For the non-minority population, the electoral system and institutional arrangements in place are perceived as clientelist and unfair, because minorities are given a more favourable electoral treatment, given their representatives are elected in a special electoral unit with no electoral threshold. For both, such mechanisms do not enhance inter-ethnic trust.

### **Consultative Role of National Minority Councils in Decision Making at the Regional and Local Levels of Governance**

A new model of minority representation was introduced in 2002 by the CLNM: national minority representatives, councils and their coordination. They should contribute to inter-ethnic

cooperation at local and regional levels. The idea behind putting forward these bodies was to additionally consolidate the right of minorities to effectively participate in public life (Petričušić 2015, 2012, 2011; Jakešević, Tatalović, Lacović 2015). National minority councils are consultative bodies that exist at all levels of governance in Croatia with the principal mission to coordinate and promote common interests of national minorities in the cities and regions where they are established and operate. They are granted the right to propose to self-government units measures for the improvement of the status of a national minority in the state or an area thereof, including the submission of proposals of general acts which regulate the issues of significance for a national minority to the bodies which adopt them; the right to propose candidates for offices in state administrative bodies and bodies of self-government units; the right to be informed of each issue to be discussed by the working bodies of the representative body of a self-government, and which pertains to the status of a national minority; the right to provide opinions and proposals with regards to the programmes of radio and television stations at local and regional levels intended for national minorities or programmes which deal with minority issues.

The candidates for national minority councils are nominated by minority associations or parties, which must collect supporting signatures of at least 20 members of national minorities from the territory of the municipality, or 30 from the territory of a city or 50 from the county. Once elected, a national minority council is a non-profit legal entity that acquires its legal personality upon registration in the Register of the National Minority Councils run by the Ministry of Administration. The president and vice-president of the council are elected in a secret ballot by all council's members. The president represents the council, calls its sessions and has various other rights and duties determined by the statute of the council. The council has to adopt its working programme, financial plan, final statement of account, and the statute by a majority vote of all its members. All these documents have to be published in a local or regional Official Gazette.

A persistent low turnout of voters in national minority council elections (around 10% in all four of the previous voting

cycles) raises a question over the legitimacy of the institution that should assure more effective minority participation at regional and local levels of governance. Harmonisation to ensure that future elections to national minority councils take place concurrently with the elections date for local self-government units could only happen if a change in the CLNM and the electoral legislation takes place. This means that more minority voters would vote if they would not need to go to polling stations open exclusively for minorities (in a country where inter-ethnic incidents occur sporadically, security concern is a serious impediment for choosing to exercise the prescribed right to elect minority council representatives). Organising national minority council elections together with local elections would probably compel more minority voters to participate in national minority council elections, as this would reduce the stigmatisation associated with voting exclusively at national minority council elections. Elections held concurrently would also be more cost-effective. A change in practice would likely increase the number of minority members elected into minority councils, thus strengthening the legitimacy of the elected minority representatives (Jakešević, Tatalović, Lacović 2015: 33).

In the Resolution on the implementation of the FCNM by Croatia, adopted on 6 July 2011, the Committee of Ministers found that “[t]he functioning of the councils of national minorities is, in many self-government units, unsatisfactory. In particular, co-operation between the councils of national minorities and local authorities is lacking. In addition, the low turnout at elections to the councils of national minorities undermined the democratic legitimacy of the electoral process. The funding for the councils, which should be secured through the local self-government units and the state budget, remains inadequate, seriously limiting their capacity to function effectively.” Back in 2008, the European Commission found that “[d]espite increased financial support, the councils for national minorities are not sufficiently recognised yet as advisory bodies by the majority of local authorities. Moreover, their independence and influence is affected by the fact that they depend on the budget of the town authority or council” (European Commission 2009: 15). Similarly, in 2010, the Commission stated that “[d]espite increased financial support, the councils for national

minorities are not sufficiently recognised as advisory bodies by the majority of local authorities. They remain financially dependent on the local authorities, affecting their independence and influence” (European Commission 2010: 14-15).

## **Representation of National Minorities in the Public Sector**

Public sector employment is one of the most important fields in which equal opportunity should be ensured. The CLNM ensures minority representation in state administration and judicial bodies, taking into account the share of national minority members in the total population at the level at which the State administration or judicial body was established and acquired rights. In order to implement the provision of the CLNM on minority representation in state administration and judicial bodies, several laws had to be amended (*the Law on the State Administration, Law on Courts, Law on the State Judicial Council, and Law on the State Prosecutor’s Office*). The Advisory Committee criticised the representation of national minorities in public services as early as in 2001, when it found that employment opportunities in state administration for persons belonging to national minorities, particularly for persons belonging to the Serb minority, are less favourable than that for citizens of the Croat ethnic origin. The Advisory Committee expressed concern that “the extraordinarily low representation of national minorities within the executive and in the judiciary is partially a result of past discriminatory measures (often related to the conflict of 1991-1995) aimed at curtailing, in particular, the number of persons belonging to the Serb minority in various bodies, including in courts” (Advisory Committee on the FCNM 2001). In November 2005, the Croatian Parliament adopted legal provisions to implement the CLNM’s representation guarantee in State administration with the *Law on Civil Service* and the *Law on Local and Regional Self-Government*. The amendment required state bodies to develop employment strategies for ensuring appropriate levels of minority representation. The *Law on Courts*, adopted in December of 2005, contains a provision prescribing the means of fulfilling the rights of national minority

members by ensuring priority in employment under equal conditions. The *Law on the State Attorney's Office* also stipulates that due consideration must be accorded to representation of ethnic minorities in the appointment of public prosecutors and deputy prosecutors. Members of ethnic minorities are entitled to refer to their ethnic minority status in procedures to appoint judges and deputy public prosecutors when a vacancy for such posts are announced. In order to increase the actual number of minority civil servants, the *Law on the Civil Servants* foresaw affirmative action mechanisms for national minority members so that they can note their minority status in their applications in order to exercise the right guaranteed by the CLNM. Hiring national minority members to the civil service depends on meeting the criteria for admission stipulated by the *Law on Civil Servants*, provisions of the *Directive on Classification of Civil Service Posts* and provisions of the *Directive on Posting and Implementation of the Public Vacancy Announcement and Internal Posting in the Civil Service*. If a national minority member applying for the civil service satisfies all criteria for the employment, his/her application will have precedence over the other candidate, if s/he calls upon his/her minority status in the application.

The AC Opinion following the Third State Report and the Resolution of the Committee of Ministers on the implementation of the FCNM by Croatia underlined that “[i]n the field of employment, in particular in public administration, the judiciary, local government and public enterprises, the non-respect of the right to proportional representation of persons belonging to national minorities established under the provisions of the CLNM gives rise to serious concern.” The issue of minority representation in the public sector was under scrutiny during the entire EU accession process. In 2011, the Progress Report of the European Commission stated that “due largely to the general ban on recruitment in the civil service, there has been no tangible improvement in the level of employment of national minorities in public sector employment. Significant further strengthening of the monitoring of the employment action plan is required” (European Commission 2011: 13). Besides, the Second Comprehensive Monitoring Report on Croatia’s preparations for membership issued on 10 October 2012 found that “the level of employment of minorities in the state

administration and judiciary remains below the requirements set by the CLNM” (European Commission 2011: 4-5).

Even though national minorities account for 7.6% of the population, only 3.4% percent of persons belonging to national minorities are employed in state administration bodies. The situation has not changed for the better in the course of the EU accession either, or in the years following the EU accession (Petričušić and Mikić 2013). In 2016, the Commissioner for Human Rights of the Council of Europe (2016: 14) expressed his concern over the insufficient number of representatives of national minorities employed in the public service. Moreover, the Commissioner had noted “that persons belonging to the Serb minority face difficulties in accessing the private labour market due to discrimination” (ibid.)

## Conclusions

Croatia has developed a comprehensive model of protection of national minorities, that came into being under specific circumstances and with the assistance of the international community. The model is based on two principles: integration and identity preservation. The principle of integration should assure that members of national minorities are ensured equal protection and rights, as well as non-discrimination, on equal footing with citizens of the Croatian ethnic background. In addition, this principle is sustained through the right of persons belonging to minorities to participate effectively in decisions on the national, regional and local levels and the right to participate effectively in the cultural, religious, social, economic and public life of the country. The identity protection principle guarantees that cultural specificities of national minorities (such as language, customs, tradition, religion, etc.) through legal guarantees on the right of the persons belonging to minorities to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public.

The EU accession process has proven pivotal for the enhancement of minority rights in Croatia. A number of action plans for the implementation of minority rights related legislation was passed in that period, and the policy for the social integration and inclusion of



the Roma minority was elaborated. Though the period of EU accession, from 2006 to 2011, resulted in vigorous legislation implementation, this failed to result in a palpable integration of national minorities into the society and state institutions. In spite of a number of reforms undertaken by the authorities aiming to strengthen the protection of and respect for rights of national minorities since the CLNM was passed in late 2002, the six above-analysed segments of the Croatian minority policy demonstrate that there is still space for improvement of the Croatian minority policy and enhancement of the multiculturalist character of the country. Moreover, nationalist rhetoric of leading rightist politicians following the EU accession had contributed to the creation of a climate of ethnic intolerance in the society and underlined the short-lasting effect of the pre-accession conditionality. The public rallies organised in 2013 against the introduction of the Serbian language and the Cyrillic script in the public sphere demonstrate that large segments of the Croatian population do not perceive the right to use minority languages as legitimate, particularly in the town of Vukovar. In addition, the case of the wide mobilisation for a referendum that would increase the threshold of local population required for recognition of co-official use of national minority languages in cities and municipalities tells that minority rights are perceived as privileges by non-minority population. A discrepancy between the citizens' perception of minority rights and political elites' pro-minority stand remains a significant challenge to be addressed by policy makers.

In spite of the obvious enhancement of the legislation dealing with the protection of minority rights and improvement of minority policies pursued by the Croatian authorities since the CLNM was passed in late 2002, inter-group relations between the Croats and the Serbs in the areas that were affected by the war still remain divided and strained. In the post-conflict setting, much more should be done in order to achieve a climate of trust and tolerance.

Indeed, in the course of the EU accession, Croatia was asked "to continue to foster a spirit of tolerance towards minorities, in particular Serbs, and to take appropriate measures to protect those who may still be subjected to threats or acts of discrimination, hostility or violence." (European Commission 2012: 4-5). Similarly, the Committee of Experts of the European Charter for

Regional or Minority Languages (2010: 35-36) considered “[t]here is still a need to promote mutual understanding between the different language groups in Croatia.” In 2014, the Committee of Experts (2014: 17) encouraged the authorities “to pursue measures promoting awareness of the Croatian public about the minority languages and the cultural contributions of their speakers.” Such an outcome that would demonstrate commitment of the wider population for a multiculturalist nature of the society cannot be reached merely through local confidence-building measures. It requires commitment to the multicultural character of the state on the part of the society, as well as strong backing of such an idea in the media and in the educational and cultural policies.

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## Multiculturalism in Bosnia and Herzegovina

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### Abstract

In this text, the author starts from the view that the post-Dayton period of the construction of the state of Bosnia and Herzegovina has been characterized by certain social and political specificities originating in the state and legal structure established by the *General Framework Agreement for Peace in Bosnia and Herzegovina*. Such ambiance ultimately produced certain antagonistic counter-norms and polarities in public and political spheres and discourses, reflecting on the elements, factors and processes of democratization and the implementation of democratic principles and procedures in the daily life of Bosnia and Herzegovina. The final result of such processes has led to ethnicization of political, legal, public and every other area, and the creation of a framework and conditions for the maintenance of the political and social *status quo* on one side, with widespread and systematic discrimination and violation of basic human rights and freedoms of certain social groups on the other. In this context, author confirms the premise that the ruling political elite, using the ethnocentric mechanisms of creating and maintaining authorities, create an apparent impossibility of building a *contemporary Bosnian identity*, valuing everyday life through certain counter-polarities, i.e. the matrices of “our” and “their” existence, simultaneously resenting diversity and difference. In such conditions and environment, social reality was not marked by the existence of civic-cultural determinants, i.e. multiculturalism in its original sense, but rather the existence of collective and individual frustrations that represent fertile ground for political, social, economic, cultural and all other manipulations of the broad layers of the population belonging to various

ethno-confessional provenances, thus creating the state of the absence of conflict, rather than the stable peace. The twenty-two years of experience since the signing of the Dayton Peace Accords has shown Bosnia and Herzegovina to encounter serious problems in securing minority rights, as well as human rights in general, and these problems mainly amounted to discrimination of citizens by slowing down all elements of the process of democratization and the application of democratic principles and procedures in the public sphere.

*Keywords:* Bosnia and Herzegovina, Dayton Peace Agreement, political elites, multiculturalism, unconsolidated democracy.

## Post-Conflict Structure and Political Representation in Bosnia and Herzegovina<sup>1</sup>

■ A permanent solution to the establishment of peace and ending the war against Bosnia and Herzegovina was achieved by the General Framework Agreement for Peace in Bosnia and Herzegovina, initialled on 21 November 1995 in Dayton, and officially signed in the presence of witnesses<sup>2</sup> in Paris on 14 December 14 1995. In addition to its general provisions, this agreement has eleven annexes:

- Annex 1.A: Agreement on the Military Aspects of the Peace Agreement;
- Annex 1.B: Agreement on Regional Stabilization;
- Annex 2: Agreement on the Inter-Entity Line of Deferment and Relevant Issues;

<sup>1</sup> See more: in Smajić Mirza, 2013. Političko predstavljanje i (ne) sigurnost nacionalnih manjina u Bosni i Hercegovini, Politički život, br. 9, Fakultet političkih nauka Univerziteta u Beogradu.

<sup>2</sup> The agreement was officially signed by the Presidents of the Republic of Croatia and SF Yugoslavia, in addition to the President of the Republic of Bosnia and Herzegovina, with the European Union Special Representative, the representative of the Federal Republic of Germany, the United Kingdom and Northern Ireland, the Republic of France, the United States of America and the Russian Federation serving as witnesses (according to Tadić, 2009:11, Beridan et al., 2001: 81).

- Annex 3: Election Agreement;
- Annex 4: Constitution;
- Annex 5: Arbitration Agreement;
- Annex 6: Human Rights Agreement;
- Annex 7: Agreement on Refugees and Displaced Persons;
- Annex 8: Agreement on the Commission for Preservation of National Monuments;
- Annex 9: Agreement on the Establishment of Public Corporations of Bosnia and Herzegovina;
- Annex 10: Agreement on the Civilian Implementation of the Peace Agreement;
- Annex 11: Agreement on International Police Force.

The Framework Peace Agreement, i.e. Annex 4 (the Constitution), provided that “the Republic of Bosnia and Herzegovina shall continue its state continuity in internationally recognized borders (...) consisting of two entities: the Federation of Bosnia and Herzegovina (51%), which comprises 10 Cantons, and Republika Srpska (49%).”<sup>3</sup>

In general, the basic characteristics of the Dayton Peace Agreement (1995) were the cessation of warfare and the verification of Bosnia and Herzegovina as an independent, sovereign and internationally recognized state.<sup>4</sup> In this context, Nerzuk Ćurak considers that the most important result of this *contradictory historical document* is the stopping of organized violence. The contradictory nature of the Dayton Agreement for the aforementioned author stems from the new (post) geopolitics of the peace process, because it is denoting Dayton Bosnia and Herzegovina as a state “created and thought of by war, made out of war,

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<sup>3</sup> Arbitration (1999) established Brčko District of Bosnia and Herzegovina (Source: [http://www.ohr.int/ohr-offices/brcko/default.asp?content\\_id=5368](http://www.ohr.int/ohr-offices/brcko/default.asp?content_id=5368) 19. juli 2013, Innes, 2006: 51-66).

<sup>4</sup> One should not forget the fact that the key characteristic of the “Dayton Constitution”, which also makes it “special”, separates it from the continental European, Yugoslav and Bosnian-Herzegovinian constitutional traditions, arises from the process of its creation and adoption. The “Dayton Constitution” is a de facto product of the peace negotiations and is the result of the end of the multi-year war, that is, the real political approach to the Bosnian issue (Šarčević, 2009: 57).

conditioned by its results” (Ćurak, 2006:31). What made such conclusion relevant was the Agreement, namely Annex 4 that produced the ethnicization of the territory of Bosnia and Herzegovina and created the framework for *status quo*. Such state of affairs confirms the thesis by the famous German geographer Carl Ritter “that the geography of violence has become the current future of the Daytonian Bosnia and Herzegovina”, creating the conditions for the production of human insecurity in the new constitutional-political architecture of the state (Beridan, Turčalo, Smajić, 2011:530).

The Constitution (Constitution Law) defines Bosnia and Herzegovina as “a democratic state that functions in accordance with the law and on the basis of free and democratic elections,”<sup>5</sup> and Bosniaks, Croats and Serbs are defined as constituent peoples who participate in the executive and legislative<sup>6</sup> authorities. For example, Article V of the Constitution of Bosnia and Herzegovina states: “The Presidency of Bosnia and Herzegovina consists of three members: one Bosniak and one Croat, each elected directly from the territory of the Federation, and one Serb, elected directly from the territory of the Republika Srpska.” This discriminatory provision created the inability to participate, that is, the participation of citizens who do not belong or do not feel as belonging to one of the three ethnic groups in the new mode of power sharing at all levels. Consequently, in his analysis of the Bosnian-Herzegovinian political situation after 1995, Benjamin Reilly concludes that “Bosnian political institutions are divided along ethnic lines, emphasizing the representative balance between the Croat, Serb and Bosniak communities in the country’s triple Presidency. This has led to the political representation of ethnic groups, but very

<sup>5</sup> Constitution of Bosnia and Herzegovina, Article 1, paragraph 2, “Democratic Principles”.

<sup>6</sup> In a series of discriminating provisions of the Constitution against all citizens of Bosnia and Herzegovina, additionally visible is the process of electing the delegates to the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina, where it has been established that “the House of Peoples consists of 15 delegates, two thirds of the Federation (including five Croats and five Bosniaks) and one third of the Republika Srpska (five Serbs)” (Constitution of Bosnia and Herzegovina, Article IV, paragraph 1).

little in the way of interethnic moderation or accommodation” (Reilly; 2001:143 in: Mujkić, 2010:77).

The Constitution created the conditions for political decentralization, or fragmentation of the sovereignty of the state of Bosnia and Herzegovina, applying the model of consociational democracy. The Annex 4 created minimum state institutions and responsibilities,<sup>7</sup> i.e. this was the era when “the competence of the state was reduced to a minimum, in order to be able to talk about the state at all” (Hartwig, 2004:4 in: Turčalo, 2009:158). In addition to the Presidency, the Council of Ministers and the Parliament of Bosnia and Herzegovina are constituted at the state level, while other “government functions and powers” are left to the entities (FB&H and RS). This solution did not constitute the basis for the development of a democratic state and institutions, but it has served ethnonational policies to strengthen ethnic specialization in Bosnia and Herzegovina through the forms of local-state imitation of the state. This paradox of the Constitution of the “crazy Dayton state” (Bajtal, 2009:27) enabled the entities to conclude special agreements with other countries, and brought the possibility of dual citizenship, which further created the conditions for “entities to become the largest decentralized states in the world” (Carl Bildt, 1998, in: Belloni, 2007:44). From today’s perspective, although there have been some mechanisms for strengthening state institutions in Bosnia and Herzegovina, the entities and even cantons keep becoming the dominant forms of existence and operation of the Bosnian society. In order to explain this situation, MacMahon points out that the constitutional and political architecture of Bosnia and Herzegovina represents “the space of the state and power divisions” (McMahon, 2004:586 in: Beridan et al., 2011:532) with the ultimate goal of marginalizing an individual in

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<sup>7</sup> According to Article III paragraph 1 of the Constitution, the institutions of Bosnia and Herzegovina have competences in the fields of: foreign policy, foreign trade policy, customs policy, monetary policy, financing of institutions and international obligations of Bosnia and Herzegovina, policies and regulation of immigration, refugee and asylum issues, international and inter-entity criminal law regulations, including relations with Interpol, the establishment and functioning of common and international communications, regulation of inter-entity transport and air traffic control (compare Chandler, 2000: 67, Bieber, 2006).

the fields of politics, economy and security. In public and scientific discourses, the Constitution of Bosnia and Herzegovina, that is, the Dayton Agreement and its embedded model of consociational democracy,<sup>8</sup> becomes subject to serious criticism, and is even referred to as “unpopular peace” (Bieber, 2006). However, although the post-Dayton institutional framework is considered to be a “classic example of a consociational solution” (Bose, 2002: 216 in: Bellona, 2007: 44), it primarily failed to achieve the expected result of further democratization in the vital aspects of the Bosnian state and society. The success of the consociational model in divided societies, as it was the case in Switzerland and Belgium, is less likely to be repeated when it comes to institutional solutions in a deeply divided society such as Bosnia and Herzegovina (Belloni, 2007: 44).

In developing the Peace Agreement for Bosnia and Herzegovina, its creators have initially used the incorrect premise that the “forced” signing will lead to “reconciliation” in case the “social-Darwinist demands of (...) the conflicting parties” are inserted into the Agreement, or the Constitution (Turčalo, 2009:84). The consensus model sought, due to the multi-ethnic composition of Bosnia and Herzegovina, to enable all ethnic groups to participate in power. However, the problem of power-sharing on the state, entity, cantonal and local levels in Bosnia and Herzegovina, contributed more to perpetuation of an ethnically motivated policy than to its weakening (Sisak in: Toth; 2011:108). The final result of the consociational power sharing in Bosnia and Herzegovina, governed by ethno-nationalist parties, is the existence of a negative consensus embodied in the systemic blocking of the decision-making process, instead of a positive consensus on co-operation in order to embark on a reconstruction,<sup>9</sup> renewal of institutions and revitalisation of the state sovereignty.

<sup>8</sup> The system of consociational democracy has been developed in countries such as Belgium, Austria and Switzerland. This model of democracy is particularly suitable for societies that are seriously divided by religious, ideological, regional, cultural and other differences (Heywood, 2004: 68, Nohlen, 2001: 163-165).

<sup>9</sup> In this context, Dino Abazović explains that “it has already become clear that the division of power and the power by the institutionalization of ethnic diversity does not necessarily lead to the desired outcomes, not

The persistent obstruction by certain ethno-political elites of adopting the decision necessary to overcome the *status quo* resulted in evolution of the debate concerning the Dayton Constitution and criticism thereof. Critics of the Dayton Constitution oppose its emphasis on ethnic and territorial division, which has resulted in certain national-secessionist threats.<sup>10</sup> Domestic and foreign scientific and professional public disputes procedural legitimacy<sup>11</sup> of the Dayton Constitution and clearly identify the “PreDayton Constitution” as a more suitable solution for multi-ethnic Bosnia and Herzegovina (Šarčević, 1997:120 in: Bieber, 2006:25). The Transformation Theory (Merkel, 1999) offers a perspective on the basis of which it can be established that none of the principles of legitimacy of the democratic procedure for the adoption of the Constitution exist in Bosnia and Herzegovina. The lack of *procedural legitimacy* of the Constitution represents a debilitating factor for the process of revitalization of Bosnia and Herzegovina as a state and a society of equal opportunities. The consequences of this are primarily the weakening of trust among citizen”, which also reflects on the trust in state institutions, leading in turn to poor institutional resolution of future problems

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least in terms of the functioning of the state and the creation of a favourable climate for the economic growth and recovery of the war torn land (post-war MS)” (Abazović, 2007:136 in: Mujkić, 2010: 75).

<sup>10</sup> In this sense, the Bosnian political scientist Nerzuk Ćuruk asks: “Is Bosnia and Herzegovina kept from falling apart only by its inner disintegration?” His answer stems from the apparent institutional restriction of the Dayton state, i.e. calls primarily the US and the EU as the creators of the Agreement, to stir their actions towards the goal of building Bosnia and Herzegovina as a legal community. Otherwise, this author emphasizes that Bosnia and Herzegovina will remain a “captured state” (more in: Ćurak, 2011: 55-64).

<sup>11</sup> Domestic authors agree that the Constitution of Bosnia and Herzegovina belongs to the group of the so-called imposed constitutions. It is characterised by the fact that it was not adopted by the head of the state, but rather imposed by external factors that have created Dayton Peace Agreement for Bosnia and Herzegovina. It is often compared to the constitutional laws of Germany, or Japan after the Second World War referred to as “imported constitutional laws”, with a difference that those constitutional laws were confirmed within domestic institutions in spite of the foreign factors’ presence. In case of Bosnia and Herzegovina, Constitutional Law has not been adopted by any domestic institution (Marković, 2011:56-57).

and generating new problems (Gromes, 2007: 89). Therefore, de facto, the focus should be on the construction of Bosnia and Herzegovina because “the non-construction of Bosnia and Herzegovina as a state is an anti-Serb, anti-Bosniak, anti-Croat, anti-minority and anti-civilian project” (Ćurak, 2011:45).

### **Democracy and the Crucial Problems thereof in Bosnia and Herzegovina**

The political practice that came out of the arrangement made in Dayton and the presence of the “strategy of division and unification”<sup>12</sup> enabled ethnic-nationalist parties to gain dominance, which led to a permanent process of blocking the structure of functional state institutions.

Non-institutional resolution of the reform issues has become a common practice of Bosnian political elites, which has completely derogated and marginalized state institutions (Parliament of Bosnia and Herzegovina). We can freely say that in the “Dayton” Bosnia and Herzegovina an apparent consensus prevails, which defines Bosnia and Herzegovina as “an ethnical state in which consensual federal institutions do not represent the power of decision-making but the place of ethnic representation of a priori divided political power and sovereignty. Consensus in Bosnia and Herzegovina is never a political but exclusively ethnic matter” (Sarajlić / Turčalo, 2009:67).

The role of the international community in Bosnia and Herzegovina, as its ideological creator, can be characterized as a ‘necessary evil’. Essentially, this means that the international community “must not reduce its position exclusively to the guest policy of mediation and finding compromise between domestic policies, with their (un)successfully camouflaged primordial ethnic anarchism (...), and will declare every additional honouring of their attitudes to be their own triumph” (Ćurak, 2011: 49–50). The international community still perceives Bosnia and Herzegovina as a post-war state that needs stability, not democratic transformation. This transformation requires an effective and decisive role of the

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<sup>12</sup> More in: McMahan; 2004: 586 according to Turčalo, 2009: 163.



international community in the institutional strengthening of the state, or the so-called process of restructuring of Bosnia and Herzegovina (“deDaytonisation”). This process can serve as a model for the future development of Bosnia and Herzegovina in functional and institutional sense, and it entails two possible steps. The first step in this process requires the break-up of the alliance between the international community and the pro-Dayton political elites which insist on the Dayton structure of Bosnia and Herzegovina, which, according to Turčalo, represents “a euphemism for a permanent crisis, and the permanent crisis is the main mechanism by which ethno-nationalist forces stay in power”. The second step concerns the recognition by the international community that this Dayton Bosnia and Herzegovina de facto is not a state and that the present constitutional arrangement cannot produce a functional state (Turčalo, 2008:23–24). Politics of Bosnia and Herzegovina is dominated by politics of counter-polarity, ethnocracy, ethnopolsim, local-etatism and anti-institutionalism. We particularly emphasize the high level of discrimination, which is presented through established forms such as: our and their schools, hospitals, etc. (read: Serbian, Bosniak or Croatian).

The last phase of the democratization process has not yet been reached in Bosnia and Herzegovina, and it primarily refers to the stabilisation and institutionalisation of democratic institutions, i.e. “the internalization of democratic norms (...) of elites and masses” (Kubicek, 2002:21). Bosnia and Herzegovina is in the process of transition and it differs from other countries in the environment in many of its characteristics. First and foremost, Bosnia and Herzegovina is a post-war society that is largely fragmented and divided in line with ethnic, religious and social categories, which is certainly the result of a pronounced ethno-political dimension. In consequence, new standards, or even countermeasures were established: internationalism was replaced by nationalism; atheism replaced by theism (aggressively expressed and made public folklore); humanism has been replaced by national homogenization; antifascism by fascism, etc. (Abazović, 2008:74). It can be noted that political will and political support, instead of being focused on the process of democratization, are spent on supporting nationalism and ethnic divisions, which ultimately leads to the

weakening of internal factors (civil society) as the main generators in achieving consolidation of democracy (Sarajlić -Maglić, 2008:15).

Ethnic dichotomy in Bosnian society and state has led to a crisis of identity, and society as a whole, generating certain prejudices and stereotypes towards others. In this context, Esad Zgodić in his interpretation of overcoming ethnic prejudices emphasizes that “the transformation of ethnicity into demos, and vice versa, the transformation of demos into ethnicity, lead to conflict and instability, while the solution lies in a democratic synthesis of the democratic principle of territoriality and ethnocratic principles of corporate-legal and corporate-political representation of linguistic and ethnic interests within the state system” (Zgodić, 2002:72). Ethnic prejudice does not necessarily lead to violent conflict. Nevertheless, this author concludes that “ethnocracy based on mass production and the perception of ethnic prejudices represents the death sentence to democracy” (Zgodić, 2002:74).

Therefore, it can be said that in Bosnia and Herzegovina there not a principle of democratic consolidation exists, which is, for example, visible from the verdict of the European Court of Human Rights in *Sejdić and Finci against Bosnia and Herzegovina*,<sup>13</sup> where it is notable that “the decisive way of harmonizing central political institutions with the electoral and party system (...) is the state administration and the recruitment of the elite” (Nohlen, 1994, in: Merkel, 1999:136), which is a condition for the success of consolidation democracy. We find the affirmation of this statement in the Thorsten Gromes study *Demokratisierung nach Bürgerkriegen – Das Beispiel Bosnien und Herzegowina*, in which the author implies that many governments in post-war times encounter problems of securing minority rights and human rights in general (Gromes, 2007:53). In addition, he detected the “slowing down” elements of democratization process, as well as of democratic

<sup>13</sup> In that judgment (applications No. 27996/06 and 34836/06), the applicants “complained that they were prevented from running for the House of Peoples and the Presidency because of their Roma and Jewish origin”, as confirmed by the judgment of the European Court of Human Rights the Human Rights Court, as regards violations of the European Convention for the Protection of Human Rights and Fundamental Freedoms (Racial Discrimination) made by Bosnia and Herzegovina ([http://www.mhrr.gov.ba/ured\\_zastupnika/novosti/?id=1008](http://www.mhrr.gov.ba/ured_zastupnika/novosti/?id=1008) (29.08. 2017).

principles and procedures' implementation,<sup>14</sup> which can serve certain anti-democratic actors in weakening democracy. In order to avoid this situation, it is necessary to ensure a low degree of fragmentation of political parties,<sup>15</sup> because, according to the research studies carried out, political systems with high fragmentation endanger the stability of the political system, and thus the process of democratization (Merkel, 2009:125–É126).

Furthermore, the consociation model is needed, due to the Bosnian-Herzegovinian multi-ethnic composition, in order to enable all the ethnic groups to participate in power-sharing. However, the problem of the *power-sharing* system in Bosnia and Herzegovina on the state, entity, cantonal and local levels, contributed to the perpetuation of an ethnically motivated policy rather than to its weakening (Smajić, 2013: 110).

Certain empirical and theoretical studies indicate that the process of democratization depends primarily on a number of factors (history, environment, demography, state position), which, ultimately, determine the duration and success of this process. Because of the pre-existing differences, identical standards cannot be applied in different countries, because, as F. Braudel claims, society is slow to change.<sup>16</sup> Below is the standard of consolidated democracy:

The democratic transition is completed when sufficient consensus has been reached on political procedures for reaching a single elected government when the government comes to power directly on the basis of free and universal

<sup>14</sup> Gromes sets an example of disputes and poor institutional efficiency in the process of democratization through the weak trust of the parties in the conflict, which reflects on the future institutional solution of problems as well as the general services, bringing the population into a state of uncertainty (Gromes, 2007: 89-93). Furthermore, there is a problem of the principle of "political competition" that can serve to strengthen certain nationalist ideas and thereby block the process of democratization (Ibid, 77-83).

<sup>15</sup> *The fragmentation index* "measures the fragmentation of the party system by the number of parties, determined by their share in votes. According to Rae (1968), the index of fragmentation is calculated by composing the sum of the square fractions of all parties and then deducting from 1" (Merkel; 1999: 138f).

<sup>16</sup> Ultimately, "the spirit of democracy cannot be imposed from outside. It must grow out from the inside of the people", according to Mahatma Gandhi.

elections, when such a government has the actual power to create a new policy and when the executive, legislative and judicial powers created by a new democracy does not have to deeply share power with other organs (Linz and Stepan, 2002:15 in Jovanović, 2006:141).

It could be noted that if statehood, sovereignty and autonomy of a state are constantly challenged (threatened) from within, then such countries can hardly be democratized and even less likely consolidated democratically. Proof of the previous thesis can be theoretically carried out and empirically confirmed by "that multinational states, multi-ethnic and multicultural ones are much more difficult to consolidate as democracies"<sup>17</sup> (Merkel; 2009: 330). Furthermore, a very interesting interpretation of the problem of newly created unconsolidated multinational religious democracies is given by Claus Offe, who claims that: (...) in the very period of post-communist transformation in which several other solid collective identities (classes, professions, etc.) have been built and organized,, nationalist or religious elites, as political entrepreneurs can realize their own interests in power through nationalist and chauvinist mobilization strategies" (Offe, 1994 in Merkel, 2009:330–331).

### **Multiculturalism vs. Dayton Nationalism<sup>18</sup>**

The political practice (implementation) of the Dayton Peace Agreement has allowed ethnic-nationalist parties to gain dominance, which has led to a permanent process of blocking political, economic and social reforms. In everyday life the state of Bosnia and Herzegovina is dominated by the politics of counter-polarity,

<sup>17</sup> In multinational countries that are increasingly fragmented and segmented, Merkel proposes the introduction of the so-called "Inclusive political structures" into institutional and constitutional architecture, with several elements of consensus and veto rights. But such a process can provide many political elites with a strategy of mobilizing and rejecting compromises, thus hindering or rejecting many reform processes (more in Merkel; 2009: 332).

<sup>18</sup> More in: Seizović, Zarije, Smajić, Mirza. 2016. „Osobnosti multikulturalizma Bosne i Hercegovine u postdejtonskom periodu“, Zbornik radova: Stanje i perspektive multikulturalizma u Srbiji i državama regiona, Srpska akademija nauka i umjetnosti i Institut društvenih nauka, Beograd, 375–387.

ethnocracy, ethnopatism,<sup>19</sup> local-etatism and anti-institutionalism. We especially emphasize the high level of discrimination, which is presented through established forms such as: *our* and *their* schools, hospitals, universities, etc. (read: Bosniak, Croatian, Serbian). On the other hand, in the context of our discussion, it is necessary to make sociological analysis of the post-war Bosnia and Herzegovina society, characterised by the three essential elements presented and covered in the study entitled “Za naciju i Boga (For the Nation and God)” by the author Dino Abazovic. Namely, the author points out the following:

(a) pronounced multiconfessionalism of the Bosnian society; (b) the role of religion and religious communities in the formation of national identities; and (c) the significance and role of religious communities in the war period, as well as the post-conflict period in which the society lives” (Abazović D, 2006: 77).

A special issue in the post-conflict phase in the development of the society of Bosnia and Herzegovina pertains to the field of human rights’ protection, also envisaged by *the General Framework Agreement for Peace in Bosnia and Herzegovina*, also known as the Dayton Peace Agreement (DMS). The B&H Constitution (Annex 4 of the DMS) proclaims the equality of Bosniaks, Croats and Serbs, claiming to be providing a guarantee of equality for all citizens of Bosnia and Herzegovina. However, not only that such equality is not secured by the existing constitutional and legal framework, but the current constitutional structure represents especially appropriate legal framework for discrimination: the state government system is designed to ensure the political participation of “constituent peoples”, marginalizing other B&H citizens (those who are “non-constituent”). *Ethnic nationalism*, being a by-product of the (ex)communist authoritarian regimes’ collapse, has proven to be the main obstacle to the democratization of all multi-ethnic states in transition, including Bosnia and Herzegovina. The ethnic criterion prevents the divide of political, social and economic power under

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<sup>19</sup> The term ethnopatism describes “the community characterized by the political priority of ethnic grouping over the individual, the priority that has been carried out through the process of democratic self-legislation, a community characterized by the political priority of an ethnic group’s right to self-determination over the citizen’s right to self-determination, with the membership of a citizen in the political community predetermined by her or his membership in an ethnic community” (Mujkić; 2007:15).

equal conditions within a civil society, favouring, in the domains of political participation and human rights protection, ethnic group at the expense of citizens as individuals. This concept allows the constituent peoples to deploy and share almost all power and authority in the state, preventing the application of equal treatment for all citizens. (Seizović, 2014: 9-10).

In such societies as Bosnia and Herzegovina, the opinion prevails that multiculturalism is worn out or altogether 'non-existent'. Certain members of the academic community in Bosnia and Herzegovina emphasize that we live in a society without identity and/or even live three identities, three cultures, three histories, three "truths", etc. In this context, Miodrag Živanović emphasizes that there are three separate cultural identities and that they do not touch one another, but also that there are "no isolated, mutually separated three cultures, three cultural circles because these are the cultures that have been here for centuries, and are actually interconnected and intertwined."<sup>20</sup> Similar line of reasoning is presented by Nermina Mujagić who considers multiculturalism in Bosnia and Herzegovina as a "constitutional multiculturalism", which in her opinion ""is another name for the political production of three different particular cultures under the roof of a single state (...) which is mere pluralism without democracy, constantly on the verge of conflict." (Mujagić, 2017:79).

Ethno-national exaltation and primitive nationalism, created as a side effect of the collapse of the Eastern European totalitarian communist regimes, have become the main obstacle to the actual democratization of the former communist countries and societies, and thus to Bosnia and Herzegovina and its society. Through the Dayton Agreement, more precisely with the Constitution of Bosnia and Herzegovina, ethnic nationalism was institutionalized: the preamble of the Constitution of Bosnia and Herzegovina (and many of its normative parts) prevents Bosnia and Herzegovina from creating a legal state climate in which power tools and authorities will be deployed within civil society, while simultaneously favouring ethno-nationalism and collective (national) rights of ethnic communities at the expense of an individual - a citizen. Ethnic dichotomy in Bosnian

<sup>20</sup> Downloaded from [http://www.slobodnaevropa.org/content/multikulturalizam\\_region\\_/24377206.html](http://www.slobodnaevropa.org/content/multikulturalizam_region_/24377206.html) 4 May 2016.

society and state has led to a crisis of identity, i.e. of the society in general, by generating certain prejudices and stereotypes towards others. In the territorial sense, Bosnia and Herzegovina is the soil on which religions, ethnicities and cultures have coexisted for centuries, which, in all their complexity and interconnectedness, cannot be exclusively linked to certain, ethnically limited, territorial communities.

Ethno-cultural, confessional, traditional, customary and every other component of the complex social milieu of Bosnia and Herzegovina are composed of fine threads of the unified Bosnian diversities, and accordingly, the use of territorial criteria as a determinant of belonging to one national group is theoretically and practically ungrounded (Seizović, 2014:25).

Among other things, as a product of Dayton nationalism, one needs to mention the hate speech omnipresent in the public sphere of Bosnia and Herzegovina. In this regard, our territory<sup>21</sup> has unfortunately become relevant, as “war”, “ethnic violence”, “secession” and “rampant political rhetoric” become parts of the public (political and media) discourse.<sup>22</sup> Mirsad Abazović calls such a state “the beginning of the dissolution of the Bosnian society (...) where individual and civic are suppressed to minimum, while national and religious collectivity gained the legitimacy of supremacy and paradigm” (Abazović, M. 2008: 73).<sup>23</sup> We find arguments for

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<sup>21</sup> More in: Turčilo, Lejla: “Govor mržnje u BH. javnom prostoru: medijski i vanmedijski akteri” (available at: [http://www.fes.ba/files/fes/img/Bilder\\_Aktivitaeten/GOVOR%20MRZNJE%20II.pdf](http://www.fes.ba/files/fes/img/Bilder_Aktivitaeten/GOVOR%20MRZNJE%20II.pdf) (accessed on 4 May 2016).

<sup>22</sup> More in the study “Analiza sigurnosnih rizika” – Procjena potencijala za obnovu etničkog nasilja u Bosni i Hercegovini” (2012), 35-58.

<sup>23</sup> Despite the “ceremonial achievements” of the Dayton Agreement in the field of the protection of human rights of individuals, it is true that it produced the state-legal and political framework within which the overall political structure in BH is based on the principle of exclusive ethnic representation of the three “constituent peoples”, at the expense of the rights of an individual. “Collective rights, regardless of the fact that their recognition is on the rise both in theory and in the practice of Western countries, is nevertheless subordinate (secondary) to the rights based on citizenship as individual right. The linguistic and cultural rights of the national minorities are protected (also under international conventions), while local, indigenous peoples (domicile) often emphasize their (of old) existing rights. However, they are also considered to be citizens of the countries in which they live” (ICG; 2002-2).

such claims in Sead Turčalo's study "*Geopolitičko kodiranje Bosne i Hercegovine u obrazovnom sistemu (Geopolitical coding of Bosnia and Herzegovina in the educational system)*" where he very concisely and substantively explains the transformation of a student into a realpolitik subject through the exposure to the national group of school subjects. Using the examples from geography and history textbooks, the study clearly identifies structural violence against 'others' which has become an immanently prevalent form of living and future making for young people. The author concludes that: "Through the teaching content of the national group of school subjects, instead of a multi-perspective approach to the studies of Bosnia and Herzegovina, one's own identity is located through symbolism, the distortion of facts and stimulation of the emotional, while other identities are marginalised, thereby, even in this field, producing the relations of controllers (creators and interpreters of the curricula) and the controlled (pupils and their parents)" (Turčalo, 2016:259).

Therefore, it can be said that today's Bosnian society is dominated by the "ethno-collective dilemma" which constantly generates the symbolism and words of hate speech, and that democracy, political and economic stability are the very things we lack.

In the book *Kulturna polivalentnost i apsurd zločina u Bosni i Hercegovini (The Cultural Polyvalence and Absurdity of the Crimes in Bosnia and Herzegovina)*, in the part entitled "Culture as a Frontal Sociological Phenomenon", Fikret Bečirović discusses the notion, definition and meaning of culture, and its relationship towards nature, exploring this relationship in ontological-anthropological discourse. In considering culture, the author connects this phenomenon to those of *ethnicity* and *identity*, in order to validly and competently address Bosnian identity (identities).

The phenomena of culture, cultural forms and cultural landscapes considered in the current Bosnian and Herzegovinian political and social context (the period after the end of the armed conflict), affirms the existence of the phenomenon which can be called *touching and coexistence of cultures* which emerged centuries earlier in Bosnia and Herzegovina, which substantially denotes the harmony of cultures, unity and diversity, i.e. the coexistence of *equality/unity* and *diversity/otherness* (Seizović / Smajić, 2016:382).



## Concluding Remarks and a Look into the Future

Instead of democratization, and political and economic stability for individuals, the post-Dayton Bosnia and Herzegovina gave birth to the ethno-collective dilemma<sup>24</sup> which has produced and perpetuated the collective's sense of vulnerability and fear of other ethnic groups, thus creating the context of (human) insecurity. Regardless of what kind of human security approach has been advocated, narrow (*freedom from fear*) or wider (*freedom from poverty*), the citizens have nevertheless been exposed to political violence, poverty, fear, poor governance and systemic corruption (Beridan, Turčalo, Smajić, 2010:536).

The devastating indicators of the citizens' trust in each other, stemming from particularisation of the Bosnian society, imply that one can hardly talk about the common national interests of Bosnia and Herzegovina. Such discussions are still impossible since the current public opinion in Bosnia and Herzegovina is a mishmash of ethnocracies which produce ambivalence in line with this matrix: "our" vs. "their", i.e. "ours" is always good, and "theirs" is always bad (Abazović, D, 2008:71).

In general, the process of democratization of Bosnia and Herzegovina is slowed down by certain society counter-norms (Sarajlić-Maglić, 2008.13): nationalist and ethnic politics; dissatisfaction with the constitutional solutions of Bosnia and Herzegovina; the ruthless rhetoric pertaining to the issues of identity and ethnicity, the lack of identification with the state, the institutionalisation of ethnic politics, superficial reforms implemented by tentative democrats, the emotional strength of nationalist rhetoric marginalizes calls for the EU norms, etc. All of these counter-measures are largely inhibiting the integration and construction a stable, functional and democratic state of Bosnia and Herzegovina. If all the post-war or post-Dayton years are observed, it is evident that Bosnia and Herzegovina has become a locus where hate ontology

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<sup>24</sup> The ethno-collective dilemma has served political elites to increase distrust in almost every pre-election campaign within the Bosnian-Herzegovinian society. Thus, with their pre-election messages, they tried to resolve the dilemma of "their": "My House Srpska" (SNSD); "Vote Serbian" (SDS); "Everyone voted for their own, how about you?" (SDA); "Determination or Extermination" (HDZBiH) (Turčalo, 2009-142).

and imposition thereof reign,<sup>25</sup> i.e. the public space is determined by the “collective” while “individuality” is expelled to a “Bastille of Democracy” (Abazović, D, 2006:105). In such environment, which is supported by both nationalist ideologies and religious nationalism, no civil society can exist or apparently exist to become the dominant social factor in the development of Bosnia and Herzegovina. In essence, Bosnia and Herzegovina becomes a place of negation of all civilizational achievements, where only “ours” and “theirs” may exist, supported by the domestic political callopistria,<sup>26</sup> which still makes Bosnia and Herzegovina a “blocked society”.<sup>27</sup> The extreme form of this condition in Bosnia and Herzegovina leads to all forms of social discrimination on ethnic, religious and sexual basis, as confirmed by the Institution of the Ombudsman for Human Rights in Bosnia and Herzegovina.<sup>28</sup> Furthermore, Bosnian sociologist Dino Abazović states that in the post-war Bosnia and Herzegovina “the formal separation of the religious community and the state is no longer important, and one should rather analyse the character and role of the national religious communities in political decision-making process” (Abazović, D, 2006:103).

All of the above clearly evidence that in Bosnia and Herzegovina the culture of trust and reconciliation has no acceptable

<sup>25</sup> Here Nerzuk Ćurak, among other things, explains that the Dayton Agreement has become a place of birth for the understanding Bosnian history as spiral of hatred, which, in his opinion, is an irritating simplification, even more reductive than the naturalistic images of Bosnia and Herzegovina as a multicultural paradise... In that context, the author concludes that Bosnia and Herzegovina is historically based on the ontology of hatred because “of the prevalence of the post-conflict political memories which, being pre-political, rather than integrally political, hinder the building of the political community as an acceptable public good of all particular identities” (Ćurak; 2011: 86).

<sup>26</sup> This term is used by Esad Bajtal as “rhetorical concealment of reality” in explaining the development and functioning of the civil society in Bosnia and Herzegovina (Bejtal, 2009: 224).

<sup>27</sup> According to Giddens the term “blocked societies” denotes the societies “in which particular interests, structural conservatisms, or both, prevent the introduction of necessary changes”.

<sup>28</sup> According to the annual report on the results of this institution’s activities for 2011, the greatest increase in cases-complaints (41.5%) of citizens was recorded in the Department for Elimination of All Forms of Discrimination (source: [http://www.ombudsmen.gov.ba/materijali/publikacije/GI2011/GI\\_OmbBiH\\_2011\\_hrv.pdf](http://www.ombudsmen.gov.ba/materijali/publikacije/GI2011/GI_OmbBiH_2011_hrv.pdf) 12 September 2012).

function, which certainly encourages intolerance and the lack of recognition of political, cultural and social differences, while it generates the general lack of solidarity in the society. The consequences of this are primarily the weakening of trust among citizens (individuals), which is also reflected in the lack of trust in state institutions, leading in turn to a poor or inadequate institutional response to the challenges of solving future problems, while new problems are increasingly being generated.

Even though more than twenty years have passed since the Agreement was signed, Bosnia and Herzegovina is still captured by the *Dayton nationalism*, in which the quasi-democratic and quasi-ethnocratic atmosphere is prevalent. The relevance of the present ethno-ambience lies only in the creation of permanent crises and violence, as it is fundamentally useless as a mechanism for the development of a democratic and functional society. In this context, *the state is on hold*, while the Dayton Bosnia and Herzegovina always "anxiously braces for the emergence of some new danger, new tyranny, as the political elite has shown that compromise is *betrayal*, and communication – *capitulation*" (Mujagić, 2010:29).

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**Danijela Vuković-Ćalasan**

Assistant Professor, Faculty of Political Science, University of Montenegro

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# Multiculturalism Policy in Montenegro

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## Abstract

The political identity of Montenegro is grounded in civic identity, which, in its conceptual form, implies cultural and ethnic neutrality. However, as a result of the need to recognise the importance of preserving the multi-ethnic character of the country and of enabling ethno-cultural communities to preserve their identity, the country is implementing measures and mechanisms of the multiculturalism model. The current normative and institutional provisions are at a satisfactory level, although there are significant limitations in relation to certain ethno-cultural communities. The implementation of existing measures in various forms of integration of ethnonational and ethno-cultural communities is the greatest challenge in this context. This is particularly the case in terms of political participation and political representation of minority peoples and other national minority communities. This paper presents an analysis of the principal aspects of the multiculturalism policy in Montenegro, and the critical issues in the process of its implementation.

*Keywords:* multiculturalism, ethno-cultural communities, Montenegro, political participation

## Introduction

■ Contemporary societies are pronouncedly multi-ethnic and/or multinational. The phenomenon of ethno-cultural and ethnonational pluralism requires state management that enables a level of stability of the social community, as well as a level of integration and inclusion of ethnonational communities in social and political life. The multiculturalism model is one of the possible management

models for ethno-cultural pluralism in contemporary societies.<sup>1</sup> It implies integration without assimilation, i.e. recognition and respect for identity specificities of different ethnonational communities. Countries are faced with ever-increasing issues as a result of globalisation, which renders the multicultural character of contemporary societies more complex.<sup>2</sup> The measures defined for tackling these issues include criticism of the multiculturalism model as a failure, a view frequently endorsed by representatives of the political elite in various European countries; as well as the promotion of different forms of the principle of civic liberalism, emphasising the idea of creating a common national identity rather than different identities of various ethno-cultural communities. It is important to emphasise the fact that multiculturalism policy must not be uniform, regardless of whether it is a type of ethno-cultural pluralism that is a result of identity specificities of immigrant communities, or whether it is based upon the specificities of national minorities and their requests. The origins of multiculturalism, demographically speaking, are not the same in Western European countries, characterised by post-colonial legacy, and East, or Southeast Europe. Consequently, it is impossible to treat the issue in the same manner when it appears in different contexts, nor is it possible to rely on the Western European praxis when addressing this issue in the Balkans and Southeast Europe (Lošonc, 2016:69). Account must be taken of the historical, cultural, ideological and other types of specificities typical of the different national and regional contexts. Therefore, any attempt of analysing multiculturalism policies in the countries of the former Socialist Federal Republic of Yugoslavia (SFRY) must involve the specificities of their multi-ethnicity, characterised by: "A close connection

<sup>1</sup> The multiculturalism model and the meaning of the term are subject to various interpretations and definitions. It is a term frequently referred to in social sciences, as well as in the public discourse of political elites. Inconsistent usage of the term complicates its conceptualisation and precise definition of the key elements of the model. For more information on the different interpretations of multiculturalism, its key elements and types, see (Vertovec, Wessendorf, 2010:2-4, 18-21); (Modood, 2007:2-10); (Raz, 1998:194-197).

<sup>2</sup> On the specificities of contemporary multicultural societies compared to the multicultural character of pre-modern societies, see (Parekh, 1998:68,69).



between national cultures, territorialisation and the numerousness of ethnic groups, as well strong opposition to the concept of political and territorial autonomy” (Bašić, 2016:60). These characteristics render the process of managing ethno-cultural pluralism of these societies more complex. Therefore, it is important to note the complexity of the problematics, and acknowledge that any form of simplification, or failure to take into account the whole, along with the individual specificities in each individual context, will lead to an impasse. Such a course of action would be ill-advised in the current condition of the growing complexity of contemporary societies in the ethno-cultural sense of the word, along with the transformation of the national state in the context of globalisation, and the fact that all the different forms of assimilation are prohibited by the constitutions or the legislation of liberal-democratic countries. When a country can no longer apply the assimilation model, while prohibiting segregation and isolationism, multiculturalism remains the only acceptable management model for ethno-cultural diversity, which is a fact frequently forgotten.

The issue of the quality of interethnic relations plays a critical role in the multicultural context of the Montenegrin state and society. According to the results of the latest population census in 2011, Montenegro may be classified as a multicultural society with a significant degree of ethno-cultural pluralism.<sup>3</sup> Therefore, the multicultural character of the country is apparent. Having adopted legislative and political measures with the aim of preserving the multi-ethnicity of the society, Montenegro may also be classified as a multicultural society in a normative sense. The quality of inter-ethnic relations is as important as the quality of the

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<sup>3</sup> There are numerous different classifications of countries with regards to the level of ethno-cultural pluralism. Normally, a country in which one ethnic community comprises 90 percent of the population is defined as monolithic, while a country in which one community comprises 80 to 89 percent of the structure of the population is defined as homogenous. When a single ethnic community comprises 70 to 79 percent of the population, the country is characterised by low homogeneity, and if it comprises 60 to 69 percent, it is characterised by high heterogeneity. Very high heterogeneity is a characteristic of countries in which a single ethnic community comprises 60 to 69 percent of the structure of the population (Raduški, 2003:427).

legal framework surrounding this matter. If the politics of multiculturalism fails to lead to a development of inter-ethnic relations and results in focusing exclusively on improving the position of ethnic-cultural communities, it may have a negative impact on the society as a whole. Prior to conducting an analysis of the vital characteristics of the politics of multiculturalism in Montenegro, it is necessary to point out that the phenomenon of multiculturalism is a form of intersection between processes and tendencies, which must be taken into account in order to understand how the phenomenon functions. Primarily, these processes and tendencies refer to economic factors, the political context, demographic trends, the cultural context, the level of interest in "others", and the willingness to practice solidarity, the perception of inequality etc. (Lošonc, 2016:70).

### **Ethnonational Pluralism of the Contemporary Montenegrin Society and the Plurality of the Identity. Successful Management of Ethno-Cultural Pluralism**

As previously mentioned in the introduction, the Montenegrin society is characterised by pronounced multiculturalism in the demographic-descriptive sense of the word. According to the results of the latest population census, conducted in 2011, there are 278,865 or 44.98% of Montenegrins, 175,110 or 28.73% of Serbs, 6,021 or 0.97% of Croats, 30,439 or 4.91% of Albanians, 20,537 or 3.31% of Muslims, 53,605 or 8.65% of Bosniaks, and 6,251 or 1.01% of Roma in Montenegro. A total of 30,170 or 4.87% of the population remained undeclared.<sup>4</sup> Despite the evident segmentation, even in the ethno-cultural sense, the Montenegrin society has managed to preserve and foster good relations between different ethno-cultural communities. National minorities represent the foundation of the ethno-cultural pluralism in

<sup>4</sup> 2011 Population Census in Montenegro, Statistical Office of Montenegro, Issue no. 83, Podgorica, 12 July 2011, pp. 6-9. Available at: <http://www.monstat.org/userfiles/file/popis2011/saopstenje/saopstenje%281%29.pdf> (20 July 2017).

Montenegrin society, bearing in mind that Montenegro has historically been their homeland. The presence of immigrant communities, on the other hand, is negligent.<sup>5</sup> The goals, mechanisms and measures that the model of multiculturalism employs with national minorities differ from the goals, mechanisms and measures that represent the essence of what the model of multiculturalism employs with immigrant communities.<sup>6</sup> This does not refer to the essential goal, the principle common to all variations of the model of multiculturalism - "integration without assimilation". National minorities established their communities in parts of the country where they have lived throughout history, albeit to a greater or lesser degree of territorial concentration. An analysis of the results of the 2011 population census in terms of the ethnic and national structure of municipalities in Montenegro provides an insight into the fact that the degree of territorial concentration of certain minorities in Montenegro is far greater in the area of some municipalities than it is in others. For example, the degree of territorial concentration of the Croatian national minority is the greatest in the municipalities of Kotor, Tivat and

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<sup>5</sup> Although precise data will only be available after the next population census, based on the data currently available, there are up to 7,000 Russians permanently living in Montenegro. According to the latest population census from 2011, 946 (0,15%) Russians live in Montenegro. 2011 Population Census in Montenegro, Statistical Office of Montenegro, Issue no. 83, Podgorica, 12 July 2011, pp. 6-9. Available at: <http://www.monstat.org/userfiles/file/popis2011/saopstenje/saopstenje%281%29.pdf> (20 July 2017)

<sup>6</sup> There are certain differences between the models of multiculturalism that apply to indigenous peoples, immigrant communities, and national minorities. Will Kymlicka specifies the content of these different forms of multiculturalism, starting from the differences between ethno-cultural communities and the types of requests they address to the authorities. The politics of multiculturalism to national minorities usually entails a combination of the following elements in each liberal-democratic context of a multicultural character: "1. federal or quasi-federal territorial autonomy; 2. official language status, either in the region or nationality; 3. guarantees of representation in the central government or in constitutional courts; 4. public funding of minority language universities/schools/media; 5. constitutional or parliamentary affirmation of "multinationalism"; 6. according international personality e.g., allowing the sub-state region to sit on international bodies, or sign treaties, or have their own Olympic team." (Kymlicka, 2010:37). For other models of multiculturalism and their content, see (Kymlicka, 2010:36).

Herceg Novi (to a lesser degree), while the Albanian national community mostly inhabits the municipalities of Bar, Plav, Rožaje, Ulcinj and Podgorica. The degree of territorial concentration of the Muslim and Bosniak population is the greatest in Bijelo Polje, Berane, Plav, Pljevlja and Rožaje, as well as Bar. The Serb national community is among the least territorially concentrated communities in Montenegro, while the Roma population is characterised by a slightly higher degree of territorial concentration in the municipalities of Berane, Podgorica, Herceg Novi, Nikšić, Ulcinj and Bijelo Polje.<sup>7</sup>

The issue of territorial concentration and representation of ethnonational communities in local governments is very significant from the perspective of the application of the model of multiculturalism at local level. The powers of local self-government bodies can facilitate the participation of national minority members in decision-making processes relating to social management.<sup>8</sup> This leads to the issue of the situation of national communities that are minority groups in certain local self-governing bodies, while amounting to 15 percent of the population at national level, as is the case with Serbs and Montenegrins, based on the result of the latest census. Therefore, multiculturalism policy measures can function at national-state level, while members of the national minority that is a majority at national level, face exclusion and marginalisation at local level. This aspect of multiculturalism policies at local level, particularly in terms of exercising the right to political representation, will be addressed at a later point in the paper.

Ethnonational pluralism exists at various levels and in various forms, and this must be taken into account when analysing the implementation of the multiculturalism model in the context of the Montenegrin society, as well as the challenges emerging in the process. A critical aspect relating to the matter of managing

<sup>7</sup> 2011 Population Census in Montenegro, Statistical Office of Montenegro, Issue no. 83, Podgorica, 12 July 2011, pp. 8–9. Available at: <http://www.monstat.org/userfiles/file/popis2011/saopstenje/saopstenje%281%29.pdf> (20 July 2017).

<sup>8</sup> The powers of local self-government bodies are specified in the Law on Local Self-Government. Available at: [http://uom.me/wp-content/uploads/2015/02/Zakon-o-lokalnoj-samoupravi\\_2003-2014.pdf](http://uom.me/wp-content/uploads/2015/02/Zakon-o-lokalnoj-samoupravi_2003-2014.pdf) (20 October 2017).

ethno-cultural pluralism has to do with the effect that multiculturalism policy has on the relations between different ethnonational communities. The key question is whether the applied legal-political measures within the framework of the multiculturalism model lead to strengthening the relationships between these communities, or to distancing and a lesser or greater degree of isolation. In that context, some authors began to emphasise the importance of *interculturalism*<sup>9</sup> as a modification of the said model. The emphasis on the legal-political measures is necessary, but insufficient for improving the position of individual ethnonational communities. The effects of such measures on the relations between these communities must also be taken into account.

Is ethnic distance on the decrease, and coherence between communities on the increase, or is the meaning of institutional and legal infrastructure of multiculturalism fading in the process of improving the position of communities as individual entities? In that sense, it is important to ask whether “a real interest for one another and willingness to interact” really exists, as a prerequisite for successful application of the mechanisms and measures of this model (Lošonc, 2016:67)? Without communication and interaction between ethnonational communities, no true integration can occur, and it would consequently be reduced to exercising ethnonational interests of particular communities. In that sense, it is important to develop *interlingualism* as “the need to learn and to use other languages in a community, or at least active acceptance of the languages and their users”, primarily through *interlingual education through language* (Bugarski, 2016:113). The development of inter-culturalism and interaction between communities, understanding and acceptance of the

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<sup>9</sup> According to Bouchard, there are seven basic characteristics of interculturalism and the following ones are particularly important: 1. Process of interaction (focus is on interaction, connection and exchange between ethno-cultural and ethnonational communities); 2. The Principles of Harmonization: A Civic Responsibility (accent is on the role and responsibility of citizens in everyday activities in terms of development of interculturalism); 3. A Common Culture (A need for simultaneous building of a common identity and common national culture is emphasised). (Bouchard, 2011: 444-462). “This is a logical, predictable, and welcome consequence of the goals of integration”. (Bouchard, 2011: 460)

specificities of their identities diminishes what Phil Ryan calls *multicultiphobia*, a particular type of fear of the Other (according to: Bugarski, 2016:112). This concept is significant in the context of Montenegro as well, since previous research on ethnic distance showed that it is still significantly present. Therefore, successful management of ethno-cultural pluralism and “integration without assimilation” implies more than legal-political measures that are to enable equal participation of all ethnonational communities in decision-making processes. It also requires successfully avoiding the position in which ethnonational communities, or their members live next to each other, rather than with one another. Such cases are conceptually closer to the model of a plural society, as defined by J. S. Furnivall.<sup>10</sup> Pronounced ethnic distance, with communities that only focus on their own benefits, and foster the feeling of loyalty only to the community itself, while merely following the laws of the country in which they live, has a negative impact on the society as a whole, and can lead to disintegration under certain circumstances. Successful application of the multiculturalism policy implies working on strengthening the national-state identity and identification with the state.

Additionally, it is a fact that individual identities of the members of ethnonational communities are complex and pluralistic, and that communities are heterogeneous and segregated in terms of the definition of personal identity. This is particularly the case in the context of Montenegro, where *the collective* takes primacy over *the individual*, so individuals frequently face the pressure of their communities, or their elites, that aim at imposing a certain perspective of the identity of the community. In such a situation, a perspective of the identity of the community that differs from the standard, or insistence upon pluralism, usually leads to such individuals being characterised as insufficiently authentic members of the ethnonational collective, and as individuals whose identity is pluralistic and multiple, and therefore “suspicious”. Every community aims at preserving its homogeneity and preventing the relativisation of its own identity to a

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<sup>10</sup> For more on plural societies and the difference between this model and multicultural societies, see (Peterse, 2007: 118-126), (Guibernau, Rex, 1997:207-210), (Malešević, 2009:95-102).

greater or lesser degree. In this process, communities frequently emphasise their differences to the point of exclusivity. The importance of the fact that rather than being monolithic, ethnonational parts of the society are heterogeneous structures, marked by pluralism at the level of personal identity, is recognised in the 2012 Ljubljana Guidelines on Integration of Diverse Societies by the OSCE High Commissioner on National Minorities: “In order to build and sustain just, stable and peaceful democracies it is necessary to recognize the distinct characteristics of groups, while also acknowledging the heterogeneity and fluidity within those groups (...) The legislative and policy framework should allow for the recognition that individual identities may be multiple, multi-layered, contextual and dynamic.”<sup>11</sup> This is particularly important in the context of the Montenegrin society, as well as other former socialist societies marked by the dominance of collectivistic traditional values over individuality. A community, or its ethnic elites as “self-proclaimed guardians of the identity” (Bhikhu Parekh) frequently create an atmosphere in which any deviation from the dominant view on the identity of a given community is perceived as negative.

Individuals who emphasise pluralism of their own identity, thus refusing to be placed in prefabricated identity matrices, often based on the emphasis of differences in relation to other closely related identities, are perceived as inauthentic members of the communities, and as “suspicious” precisely because they want to keep their own complex and multiple identity. The significance of this issue is even more evident in conditions of high levels of politicization of a society and the instrumentalisation of ethnic and national identities. One of the greatest challenges for the future of the process of democratisation of the Montenegrin society is the maturation of the society itself in terms of a greater degree of individualisation in the sphere of collective identities - collective and national. Similarly, Amin Maalouf warns that “Whoever claims a more complex identity becomes marginalized” (Maalouf, 2016:9).

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<sup>11</sup> OSCE High Commissioner on National Minorities 2012 Ljubljana Guidelines on Integration of Diverse Societies, page 14. Available from: <http://www.osce.org/sr/hcnm/110500?download=true> (23.08.2017)

Therefore, preservation of ethno-cultural and ethnonational identity in Montenegro, in line with the principles and mechanisms of the multiculturalism model, does not only imply creating an atmosphere of respect and protection of identity specificities of all individual ethnonational and ethno-cultural communities. *It simultaneously implies creating a social atmosphere in which all diversity and ethnonational pluralism at the level of personal identity is not looked upon with doubt, distrust and a lack of understanding.* Hence, it is necessary to deviate from the “tribal conception of the identity” (Maalouf, 2016:44). “So am I half French and half Lebanese? Of course not. Identity cannot be compartmentalised. You can’t divide it up into halves or thirds or any other separate segments. I haven’t got several identities: I’ve got just one, made up of many components in a mixture that is unique to me, just as other people’s identity is unique to them as individuals.” (Maalouf, 2016:8).

It is important to touch upon a matter related to ethno-cultural pluralism of the contemporary Montenegrin society, i.e. the degree of cultural differences between national and ethnic communities within the state. *Cultural distinctiveness* or *the degree of cultural dissimilarity*, according to Bernhard Peters, is irrelevant from the position of creating a collective identity of groups: “Two groups with extremely similar cultural characteristics can nevertheless maintain quite strong collective identities” (Peters, 1999:9).<sup>12</sup> In terms of representation of ethnonational communities in the total structure of the population, it was previously mentioned that Montenegro can be characterised as a country with pronounced ethnic pluralism. However, in the sense of cultural distinctiveness, these identities are quite similar, primarily in terms of language (with the exception of the Albanian community), and in terms of lifestyle and value systems. The situation is similar in other former Yugoslav countries.

The matter of the degree of cultural distinctiveness between ethnonational communities in a country is relevant for another reason; countries marked by significant cultural distinctiveness between communities, in terms of values, lifestyle, cultural

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<sup>12</sup> He links cultural dissimilarity between groups with differences in world views, value systems, beliefs, etc.



practices etc., face greater challenges in the process of creating a common national-state identity. This is particularly the case if a country is approaching the model of ethno-national identity. However, if these differences are not that pronounced, a more successful consolidation of the common political identity can be expected. Naturally, it depends on a number of other factors, such as the nature of the identity, economic factors, historical circumstances, territorial concentration of a community, and potential aspirations for independence, etc. Montenegro took a formal and legal turn from other former SFRY countries by forming its national-state identity on civic grounds, thus providing open access to all ethnonational communities that live in the country.

An identity constituted in such a manner creates good conditions for the development of multiculturalism policy, if the turn from ethno-nationalism is made both formally and actually.<sup>13</sup> If the common identity is exclusive and if it represents an expression of a culture and identity of an ethnonational community, identification of the members of other communities will be made difficult, which can, in the long run, lead to isolationism and closed communities. In such cases, multiculturalism policy does not result in strengthening the common identity and increased coherence of communities, but leads to their isolation and focus on their own interests as a group. As Bhikhu Parekh states, it leads to a situation in which they merely follow the law of the state and reserve the feeling of loyalty only for their own community (Parekh, 2008).

### **Legal-Political Relevance of the Ethnic and the National - Multiculturalism in Montenegro**

Among the results of ethnification of policies and the fact that ethnic and national matters became relevant in the legal-political dimension, is the acceptance of and respect for minority collective rights. The history of the protection of minority rights in Montenegro is linked with political circumstances and the fact that

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<sup>13</sup> For more on the process of constituting a civic political identity in Montenegro and its implications on multiculturalism policy, see (Vuković-Čalasan, Đečević, 2015: 7-39)

granting minority rights is a result of the need to provide support for certain political options at a particular point in time. In terms of the situation and status of minority ethnonational communities in Montenegro, and the application of multiculturalism policy measures and mechanisms, it is possible to draw a distinction between several periods. Jelena Džankić isolates three phases in the development of minority rights in Montenegro, primarily in relation to the issue of defining minority communities. The beginning of the first phase coincides with the adoption of the 1992 Constitution and lasts until September 1997, or the signing of the Agreement on Minimum Principles for the Establishment of a Democratic Infrastructure in Montenegro. The second phase lasts from 1997 until the adoption of the Law on Minority Rights and Freedoms in 2006, and the beginning of the third phase is marked by the referendum on the renewal of Montenegro's independence (Džankić, 2012:41).

The legislative and institutional infrastructure for the multiculturalism model in Montenegro was developed in the second and third stages. The situation changed in 1997, a year marked by internal turmoil and a rift in the ruling party, which created two main currents - one led by the president of the Republic, Momir Bulatović, and the faction led by the prime minister, Milo Đukanović. Despite the fact that the latter won the lead, the faction of the party that he represented lost the majority in the parliament. To secure it, Đukanović made the *Agreement on the Minimum Principles for the Development of a Democratic Infrastructure in Montenegro* with representatives of the opposition, in September 1997. The agreement guaranteed that the extraordinary parliamentary elections in 1998 would be held under more democratic conditions.<sup>14</sup> This particular circumstance had signifi-

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<sup>14</sup> Members of the Albanian and Muslim national communities primarily supported the coalition led by Đukanović, at the expense of their own national parties. Vladimir Goati points out two main characteristics of the elections in Serbia and Montenegro, member republics of the Federal Republic of Yugoslavia from 1990 to 1998: 1. They did not only represent a competition between political parties hoping to win mandates; they were also a fight for free and fair elections; 2. The fact that former communist parties in Montenegro and Serbia won all the elections is an important characteristic of the period (Goati, 2001:157, 158).

cant implications on introducing the multiculturalism policy mechanism through electoral legislation, which will be addressed at a later point in this paper.

Until the adoption of *the Law on Minority Rights and Freedoms* in 2006, and the *Constitution of Montenegro* in 2007, the 1998 *Law on Election of Councillors and Representatives* from was the most fundamental document for securing certain minority rights in line with multiculturalism policy. Affirmative action measures that were defined in electoral legislation were rather selective, and were not an adequate means of pursuing the multiculturalism model, especially in the area of political participation by minority ethnonational and ethno-cultural communities. More details on this matter are provided in the following chapter.

Primarily, it is important to underline that Montenegro acknowledged all international regulations and standards in the area of protection of national and ethnic minorities. Accordingly, it set up legal and institutional frameworks for this protection. In the normative and political sense, i.e. the current legal and institutional solutions, Montenegro is a multicultural country.

Efforts aimed at integrating minority ethnonational communities in the critical areas of social and political spheres of life resulted in numerous new legal and political measures, as well as some open questions in various areas of integration. The Law on Minority Rights and Freedoms, adopted in 2006, was one of the fundamental laws in relation to the multiculturalism policy in Montenegro. This law provided a definition of minorities, enabled the forming of national councils, and set forth the activities of the Fund for Minorities.<sup>15</sup> National minority councils are an important

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<sup>15</sup> "For the purpose of the present Law, the minority shall mean any group of citizens of the Republic, numerically smaller than the rest of predominant population, having common ethnic, religious or linguistic characteristics, different from those of the rest of the population, being historically tied to the Republic and motivated by the wish to express themselves and maintain their national, ethnic, cultural, linguistic and religious identity." – Article 2 of the Law on Minority Rights and Freedoms. Consequent changes referred to the designation of the country, and the terminology used for minority national communities. Article 2 of the 2011 Law on Amendments to the Law on Minority Rights and Freedoms contains the term "minority peoples and other minority national communities" instead of "minority". Thus, the Law

mechanism for representation and protection of national minority interests.<sup>16</sup> Minority peoples and national minority communities can only form one council, with a minimum of 17 members elected for a period of four years. The aforementioned duties of the councils indicate the importance of their role in promoting the status of ethno-cultural and ethnonational minority communities. However, certain difficulties evidently emerge in the process of implementing these duties. For example, in the area of education, members of national councils frequently address the issue of insufficient communication with the relevant authorities and a lack of consideration for the consultative role of the council in this sphere. A total of six national councils have been formed thus far.<sup>17</sup> The 2006 Law on Minority Rights and Freedoms was amended by the Law on Amendments to the Law

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was brought in line with the 2007 Constitution of Montenegro in terms of the terminology used. Law on Minority Rights and Freedoms, 2006. Available at: <http://www.sluzbenilist.me/PravniAktDetalji.aspx?tag=%7B9CA4613B-9871-47EF-A24A-DFEDA6E15F38%7D> (10.10.2017). Law on Amendments to the Law on Minority Rights and Freedoms, 2011. Available at: <http://www.sluzbenilist.me/PravniAkt-Detalji.aspx?tag=%7BA58921B6-4577-425C-B073-055E864F4128%7D> (10 October 2017).

- <sup>16</sup> Article 35 of the Law on Minority Rights and Freedoms states that: "The Council shall:
- Represent and act on behalf the relevant minority;
  - Submit proposals to state bodies, local self-government bodies and public services in charge of promotion and development of the rights of minorities and their members;
  - Lodge initiatives with the President of the Republic for refusal to promulgate a legal act by which the rights of minorities and their members are violated;
  - Participate in planning and establishment of educational and pedagogic institutions;
  - Provide an opinion on curricula which reflect specificities of minorities;
  - Propose enrolment of a certain number of students at the University of Montenegro;
  - Launch initiatives for amending legislation and other documents regulating the rights of members of minorities;
  - Also perform other activities in accordance with the present Law."
- Law on Minority Rights and Freedoms, 2006. Available at: <http://www.sluzbenilist.me/PravniAktDetalji.aspx?tag=%7B9CA4613B-9871-47EF-A24A-DFEDA6E15F38%7D> (10 October 2017).

- <sup>17</sup> National Councils were formed for Serbs, Croats, Albanians, Bosniaks, Muslims and Roma.

on Minority Rights and Freedoms in 2011. A new Law on Amendments to the Law on Minority Rights and Freedoms was adopted in 2017, and the amendments mainly concern the role of the Fund for Minorities. The operations of the Fund and their approach to budget allocation in the area of supporting activities aimed at preservation and development of identity specificities of minority peoples and other minority communities was frequently criticised. Therefore, a significant part of this Law was dedicated to the operations of the Fund for Minorities and its approach to budget allocation under the heading “Fund for the Protection and Exercising of Minority Rights”.<sup>18</sup>

The Constitution of Montenegro, adopted in 2007, was among the most significant foundation documents in the context of the multiculturalism policy in Montenegro. The Constitution guarantees special minority rights in Article 79, in the provision on “protection of identity”, while the provision on “prohibition of assimilation” in Article 80 prohibits forced assimilation of minority peoples and other national minority communities.<sup>19</sup> Article 79

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<sup>18</sup> Law on Amendments to the Law on Minority Rights and Freedoms, 2017. Available at: <http://www.sluzbenilist.me/PravniAktDetalji.aspx?tag=%7B596D56C2-54AF-4639-A664-F57A76F4B9B3%7D> (25 October 2017).

<sup>19</sup> The Constitution contains a list of the most important minority rights, primarily relating to the protection of identity of national communities: “Persons belonging to minority nations and other minority national communities shall be guaranteed the rights and liberties, which they can exercise individually or collectively with others, as follows: 1) the right to exercise, protect, develop and publicly express national, ethnic, cultural and religious particularities; 2) the right to choose, use and publicly post national symbols and to celebrate national holidays; 3) the right to use their own language and alphabet in private, public and official use; 4) the right to education in their own language and alphabet in public institutions and the right to have included in the curricula the history and culture of the persons belonging to minority nations and other minority national communities; 5) the right, in the areas with significant share in the total population, to have the local self-government authorities, state and court authorities carry out the proceedings also in the language of minority nations and other minority national communities; 6) the right to establish educational, cultural and religious associations, with the material support of the state; 7) the right to write and use their own name and surname in their own language and alphabet in the official documents; 8) the right, in the areas with significant share in total population, to have traditional local terms,

guarantees the right to authentic representation in the Parliament of Montenegro and in the assemblies of the local self-government bodies in which they represent a significant share in the population, according to the principle of affirmative action (item 9), as well as the right to proportional representation in public services, state authorities and local self-government bodies (item 10). These two rights enabled political participation of minority communities at state and local levels. It is one of the most significant aspects of the multiculturalism policy in Montenegro, and as such, it requires special attention.

At institutional level, the Ministry for Human and Minority Rights plays a significant role in implementing the multiculturalism policy and the guaranteed rights of minority communities in Montenegro. This body also submits proposal policies for developing and protecting minority rights to the Government of Montenegro, lays down regulations and instructions on electing members of minority councils and other minority communities, and supervises the implementation of the legislation as well as regulations adopted on the basis of the Law on Amendments to the Law on Minority Rights and Freedoms in 2011.<sup>20</sup> The Ministry is also responsible for promoting inter-ethnic relationships and tolerance. It has limited capacities at its disposal for implementing the full scope of the envisaged activities, and this is one of the greatest

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names of streets and settlements, as well as topographic signs written also in the language of minority nations and other minority national communities; 9) the right to authentic representation in the Parliament of the Republic of Montenegro and in the assemblies of the local self-government units in which they represent a significant share in the population, according to the principle of affirmative action; 10) the right to proportional representation in public services, state authorities and local self-government bodies; 11) the right to information in their own language; 12) the right to establish and maintain contacts with the citizens and associations outside of Montenegro, with whom they have common national and ethnic background, cultural and historic heritage, as well as religious beliefs; 13) the right to establish councils for the protection and improvement of special rights." The Constitution of Montenegro, 2007, page 14. Available at: <http://sudovi.me/podaci/vrhs/dokumenta/614.pdf> (25 September 2017).

<sup>20</sup> Article 38 of the Law on Minority Rights and Freedoms (2006); Articles 7 and 39a of the Law on Amendments to the Law on Minority Rights and Freedoms (2011).

hindrances in the functioning of the Ministry itself. Another important actor in the context of the protection of minority rights is the Institution of the Protector of Human Rights and Freedoms (Ombudsman), formed in 2003. The basic line of activities of the Ombudsman concerns the protection of minority rights. One can say that Montenegro invested significant efforts in building an institutional framework that would enable the process of exercising minority rights in different areas. Additionally, the legislation is at a satisfactory level, despite significant normative limitations, particularly in the area of political participation and representation of certain minority ethno-cultural and ethnonational communities.

### **Participation of Minority Ethnonational and Ethno-Cultural Communities in Montenegro in Political Decision-making Processes**

Successful exercise of the right to effective participation by minority communities is a prerequisite for instituting the principle of the rule of law in Montenegro. Exercising the right to political participation is particularly important in this context. Minority communities must be granted the right to participate in political decision-making processes that affect the society as a whole, rather than only in areas concerning the identity and rights of the minority community itself. Effective political participation is required for social participation of minorities and their full integration. Political representation of minorities depends on a range of factors, such as the characteristics of the electoral system, the size of the national minority group, the group's territorial concentration, the degree of integration of the minority community in the society, the number and influence of national parties, as well as the support that civic parties receive from the members of minority communities (Orlović, 2011:412).

In the first phase, until 1997, the issue of minority rights, particularly the right to political participation, was marginalised.<sup>21</sup>

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<sup>21</sup> For more on terminological solutions, protection and position of minority communities before the adoption of the 1992 Constitution, in the context of former SFRY, see (Vuković-Čalasan, 2017:143).

From the introduction of the multiparty system to the adoption of the aforementioned agreement in 1997, and the adoption of the Law on Election of Councillors and Representatives in 1998, the political setting in Montenegro was characterised by, inter alia, dominance of the Democratic Party of Socialists, a radical relationship with the opposition and a semi-authoritarian regime (Darmanović, 2007:85). Matters concerning minorities were marginalised in this period, and members of minority ethnonational communities were mostly not involved or represented in political decision-making processes. At the first parliamentary elections held in 1999, the Alliance of Parties of Minority Peoples won 13 out of 125 mandates, while there were no national minority parties in the parliament after the elections held in 1992, due to a change of constituencies. Following the return to full proportionality and the change in the number of constituencies at the 1996 elections, the Party of Democratic Action of Sandžak (SDA) won 3 mandates, the Democratic Alliance in Montenegro won 2 mandates, and the Democratic Union of Albanians also won 2 mandates.

Following the internal split in the Democratic Party of Socialists in 1997, and the *Agreement on the Minimum Principles for the Development of a Democratic Infrastructure in Montenegro* with the opposition, grounds were set for adopting the Law on Election of Councillors and Representatives in 1998. This law set a model that enabled facilitated representation of a single, Albanian national community. A special decision by the Parliament of Montenegro resulted in setting up special polling stations in parts of the Montenegrin territory predominantly inhabited by the Albanian population. Between four and five representatives were directly elected at these polling stations, although the numbers varied. It is interesting to note that Albanian national parties won only two mandates at the parliamentary elections held in 1998, 2001, 2002 and 2006. The voters voted according to their political, rather than national affiliation. As a result, half or more than half of the mandates were won by non-national parties, primarily the Democratic Party of Socialists. This caused a great deal of discontent among the representatives of Albanian national parties that aimed at winning the reserved representative seats for their



national parties, believing that non-national parties taking the reserved seats opposed the principle of affirmative action.<sup>22</sup> Therefore, in the first phase of political representation of minority communities and the development of electoral legislation, it was also possible to achieve authentic representation of the interests of national minority communities through non-national, civic parties.<sup>23</sup>

Multiculturalism policy measures are meaningful only if they result in the equal status of national minority communities and if they have a positive effect on the quality of inter-ethnic relations. The fact that affirmative action measures were only introduced for members of one ethnonational community was a major source of discontent among other national communities and, as such, it was subject to criticism by the relevant international organisations dealing with minority rights issues, such as the OSCE. This issue remained unresolved until 2011, and the adoption of the *Law on Amendments to the Law on Election of Councillors and Members of Parliament of Montenegro*.

One of the most significant areas of integration of ethnocultural and ethnonational communities in a country, which is simultaneously a prerequisite for achieving full integration and equality in other areas, is the sphere of political participation. The process of democratisation and consolidation of democracy inevitably includes securing the participation of minority communities in decision-making processes at state and local levels. Minority ethnonational communities must be able to participate in political decision-making processes relating to all matters affecting the society as a whole, rather than only those matters strictly affecting the interest and position of the community itself. In an attempt to reach this goal, the 2011 Law laid down two different types of affirmative action measures, for “large” and “small” minority

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<sup>22</sup> At the parliamentary elections held in 1998, 2001 and 2002, Albanian national parties won 2 mandates. In 2006, they won 3 mandates, while in 2009, following the same model, they won a total of 4 mandates.

<sup>23</sup> Taking into account the relations between national minority communities’ parties, Florian Bieber draws a distinction between four types of political parties: *Monoethnic parties*, *Ethnic Parties with Minority Candidates*, *Diversity-sensitive civic parties* and *Multiethnic parties* (Bieber, 2008:13).

communities. These measures were in line with exercising the right to authentic representation, guaranteed by the Constitution of Montenegro, adopted in 2007, another significant pillar of multiculturalism in Montenegro. Apart from the list of minority rights listed in the Constitution, minority peoples and other national minority communities can also exercise the rights guaranteed by the adopted international treaties. Out of all the aforementioned measures, the most controversial matter (in terms of the various interpretations it received) is the matter of the meaning, content and the point of the “principle of affirmative action”, as well as the relationship between this principle and the right to “authentic representation” (Šuković, 2010:277).<sup>24</sup> Article 22a of the Law on Amendments to the Law on Rights and Freedoms of Minorities states that authentic representation of minority peoples and other national minority communities in the Parliament of Montenegro and in local assemblies where members of these communities represent a significant share in the population, must be secured according to the principle of affirmative action, and in line with the electoral legislation.<sup>25</sup> Exercising the right to authentic representation of national minority communities implies representation of their authentic interests through elected representatives, but it does not necessarily guarantee representation that is proportional to the number of members of a particular national minority in the total population of the country.

<sup>24</sup> Šuković draws attention to the meaning, content, and the point of “authentic representation”. It is important to note that “authentic representation” does not refer to proportional representation; instead, it is linked with the term “original”. The content, meaning, and the point of the right of members of minority peoples and other national minority communities to “authentic representation” means that the MPs, and the councillors in local self-governing bodies, chosen “in unison with others” have the *duty and the right* to voice and represent the specific *original/authentic* interests of the members of the relevant national minority.” (Šuković, 2010:279). Furthermore, Šuković emphasises the need to specify the meaning of the formulation “the right to authentic representation according to the principle of affirmative action.”

<sup>25</sup> Law on Amendments to the Law on Minority Rights and Freedoms, *Official Gazette of the Republic of Montenegro*, No. 2/2011”. Available at: <http://www.sluzbenilist.me/PravniAktDetalji.aspx?tag=%7BA58921B6-4577-425C-B073-055E864F4128%7D> (29 September 2017).

As a result of the criticism of affirmative action measures that were set forth in the Law on Election of Councillors and Representatives in 1998, which made an unjustifiable distinction between ethno-cultural and ethnonational communities in terms of the possibility to exercise political participation, the Law on Amendments to the Law on Election of Councillors and Members of Parliament of Montenegro provided a different solution. Affirmative action measures in line with multiculturalism policy involved other minority communities as well. This led to the question of whether national minority communities could be authentically represented only by their national parties and representatives, or could the authentic interests of national minority communities also be represented by civic, non-national parties? A change in the electoral legislation enabled parties whose name, statute or programme specifically stated that they were national parties to win mandates more easily. If parties and electoral lists of national minority communities could prove to the State Election Commission that they were parties and lists that exclusively represented the interests of a particular national minority community, changes could be made to the election threshold for allocating seats in the Parliament of Montenegro, which was 3 percent of the total number of valid votes. For the parties and electoral lists that represented national minority communities, a special threshold applied, 0.7 percent of the total number of valid votes. If more than one national party or electoral list representing national minorities crossed the 0.7 percent threshold, the votes were added up to the so-called general electoral list, so that the national lists of a single national minority community could win up to three mandates. The model of affirmative action also set forth a special solution for the Croatian national community. The party or the electoral list of the Croatian national community that could not win a single mandate was guaranteed a mandate if it crossed the threshold of 0.35 percent of the total number of valid votes.<sup>26</sup>

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<sup>26</sup> Article 62 of the Law on Amendments to the Law on Election of Councillors and Representatives. Available at: <http://www.sluzbenilist.me/PravniAktDetalji.aspx?tag=%7BB3EA7C52-474C-423D-8921-3ACD728101F3%7D> (10 October 2017)

## **Normative Limitations and Problems in Implementing Existing Solutions in the Area of Political Participation of Minority Communities**

Alongside the aforementioned changes that represent an overall improvement in the area of exercising the right to authentic representation in the Parliament of Montenegro, which further leads to political participation, it is necessary to underline the most important challenges as well. Primarily, they refer to the level of participation and general integration of the Roma ethno-cultural minority community in the social and political life of Montenegro. The fact that affirmative action measures do not entail political representation of the Roma further complicates their social position, characterised by life in conditions of extreme poverty, pronounced discrimination and a low degree of integration in the socio-economic and legal-political sense.<sup>27</sup> Following the adoption of the Action Plan for the Implementation of the Project “Decade of Roma Inclusion 2005-2015”, and the Strategy for Improving the Position of RAE Population in Montenegro 2008-2012, the Government of Montenegro adopted the Strategy for Improving the Position of Roma and Egyptians in Montenegro 2012-2016 in March 2012. The Strategy defines areas of implementation, institutions and

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<sup>27</sup> The Report on the Development and Protection of the Rights of Minority Peoples and Other Minority National Communities for 2015 prepared by the Ministry for Human and Minority Rights presents the results of a research on perception, views and experiences of discrimination in Montenegro (this type of research was also conducted in 2011 and 2013 by the Ministry). Social groups were ranked by the degree of discrimination from high and medium, to low levels of discrimination. According to Montenegrin citizens, members of the Roma community are among the most discriminated members of the population, and this status remained unchanged throughout the years of research. These results indicate a problem in the application of the multiculturalism model from the perspective of the need to eliminate ethnic and national discrimination, and to decrease ethnic distance. For more details, see: Report on the Development and Protection of the Rights of Minority Peoples and Other Minority National Communities for 2015, Podgorica, 2016, p. 52. Available at: <http://www.gov.me/biblioteka/izvjestaji?pagerIndex=15&alphabet=lat> (10.10.2017).

subjects responsible for the implementation of activities in each area, funds for the realisation of activities, etc. Beside the legal status, education, employment, health insurance, social and child protection, violence against women and family violence, cultural and linguistic identity, information and habitation, the Strategy defines the critical activities and areas of participation in the political and social life. "To create normative conditions for political representation of Roma and Egyptians at state and local level, which shall require certain amendments to and adjustments of Law on Election of Councillors and Representatives."<sup>28</sup> Even after the adoption of the Law on Amendments to the Law on Election of Councillors and Members of Parliament of Montenegro in 2014, the normative preconditions for political representation of Roma and Egyptians in the Parliament of Montenegro and local self-government assemblies were not met. The Report on Montenegro's Progress Toward Integration and Protection of the Rights of Roma 2015 states that the underrepresentation of Roma in the political sphere is one of the most significant problems in the process of their integration into the Montenegrin society.<sup>29</sup>

The fact that electoral legislation does not set forth affirmative action measures for securing political representation of this community further complicates the status of the Roma community. An adequate approach to this issue would imply adopting the solution that applies to the Croatian national communities, whose political parties and electoral lists need to cross the threshold of 0.35 percent of the total number of valid votes, if neither of the parties crosses the 0.7 percent threshold. The Roma ethnic community is also one of the smallest communities. Thus, changes in the threshold are the only possible means to

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<sup>28</sup> Strategy for Improving the Position of Roma and Egyptians in Montenegro 2012-2016, Podgorica, 2012, p. 28. Available at: <http://www.mmp.gov.me/rubrike/strategija-za-poboljsanje-polozaja-roma?alphabet=lat> (10 October 2017).

<sup>29</sup> Summary Report on Montenegro's Progress Toward Integration and Protection of Rights of Roma 2015. Available from: <http://www.mladi-romi.me/2014-07-21-09-36-07/dokumenta/category/3-publikacije#> (10.10.2017).

securing political representation of this community in the Parliament of Montenegro, and their participation in the political decision-making processes. Since the Roma community is characterised by the worst economic and social status in the Montenegrin society, this solution appears to be absolutely justified. The current treatment is perceived as unjust by representatives of the Roma ethnic community, while the lack of a systemic solution represents a source of their discontent and criticism.

Alongside political representation at national-state level, the matter of proportional representation of national minority communities in public services, state authorities and the public services remains unresolved. This right is guaranteed by Article 79 of the Constitution of Montenegro. Beside the Constitution, this right is specified in Article 25 of the Law on Minority Rights and Freedoms, which states that minorities have the right to proportional representation in public services and local self-government bodies, and that authorities in charge of human resource matters, together with councils for national minorities, monitor the implementation of this right.<sup>30</sup> Additionally, Article 45 of the Law on the Election of Councillors and Representatives states that the head of a state authority must take into account proportional representation of members of minority peoples and other national minority communities while making decisions regarding the choice of candidates.<sup>31</sup> The Report on the Development and Protection of the Rights of Minority Peoples for 2015 prepared by the Ministry for Human and Minority Rights states that heads of state authorities must be in charge of securing proportional representation, guaranteed by the Constitution and the aforementioned laws, in light of the future reforms in the area of public services. It is also considered necessary for the Govern-

<sup>30</sup> Law on Minority Rights and Freedoms, "Official Gazette of Montenegro, No. 31/2006". Available from: <http://www.sluzbenilist.me/PravniAktDetalji.aspx?tag=%7B9CA4613B-9871-47EF-A24A-DFEDA6E15F38%7D> (10.10.2017).

<sup>31</sup> Law on the Election of Councillors and Representatives *Official Gazette of Montenegro*, no. 39/2011. Available at: <http://www.sluzbenilist.me/PravniAktDetalji.aspx?tag=%7B8B19A19E-1A3D-4008-89F8-30687A6B3AC0%7D> (15 October 2017).

ment to provide financial support to education and professional training of members of minority peoples and national minority communities.<sup>32</sup> This is particularly important for members of the Roma ethnic community on account of their lack of resources and low education levels, hindering the process of the implementation of these rights.

There is no precise data on the national and ethnic structure of employees in public services, the state administration, and local self-government bodies in Montenegro. In 2010, based on existing data, interviews and research conducted in 2008 by the Office of the Protector of Human Rights and Freedoms on representation of members of minority communities in state authorities, non-governmental activists established that the ethno-national structure of employees does not match the ethnic structure of the population.<sup>33</sup> It was one of the first pieces of research on proportional representation conducted in Montenegro. The Ministry for Human and Minority Rights, in partnership with the Human Resources Management Authority conducted a research in 2014 on the level of representation of minority peoples and other national minority communities in state authorities and public administration bodies. Out of the total of 6,808 interviewees: 82.11 percent declared as Montenegrin; 7.30 percent declared as Serb; 1.32 percent declared as Albanian; 4.89 percent declared as Bosniak; 2.19 percent declared as Muslim; 0.03 percent declared as Roma; 0.40 percent

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<sup>32</sup> Report on the Development and Protection of the Rights of Minority Peoples and Other Minority National Communities for 2015, p. 13. Available at: <http://www.gov.me/biblioteka/izvjestaji?pagerIndex=15&alphabet=lat> (15 October 2017).

<sup>33</sup> The Human Resources Management Authority responded to the request made by the Youth Initiative for Human Rights for provision of data on the representation of members of different national communities in state administration bodies. Following the request, 3,462 officers and clerks filled out the Central Human Resource Record, and a total of 1,488 revealed their nationality. A total of 1.55 percent declared as Albanian; 0.67 percent declared as Bosniak; 4.17 percent declared as Serb; 84.95 percent declared as Montenegrin; 0.2 percent declared as Croat; 0.13 percent declared as Yugoslav; 1.55 percent declared as Muslim; 5.04 percent declared as "unknown", and 1.68 percent remained "undeclared". Youth Initiative for Human Rights, Foundation Open Society Institute, *Representation of Ethnic Communities in Public Administration in Montenegro*, Podgorica, 2010, p. 34.

declared as Croat; 0.35 percent declared as “other”; and 1.41 percent remained undeclared in terms of nationality.<sup>34</sup>

According to a 2011 research study, a total of: 79.03 percent declared as Montenegrin; 8.9 percent declared as Serb; 2.80 percent declared as Albanian; 4.14 percent declared as Bosniak; 2.39 percent declared as Muslim; 0.01 percent declared as Roma; 0.89 percent declared as Croat; and 0.42 percent of employees declared as “others” in terms of nationality.

A report on employment and the situation in administrative areas in 2015 prepared by the Ministry for Human and Minority Rights contains data on proportional representation of national minorities in state bodies, administrative bodies, local self-government bodies, courts, and the State Prosecutor’s Office. Out of the total of 13,900 interviewees, 74.76 percent declared as Montenegrin; 11.24 percent declared as Serb; 2.51 percent declared as Albanian; 5.62 percent declared as Bosniak; 2.46 percent declared as Muslim; 0.02 percent declared as Roma; 0.76 percent declared as Croat; and 0.42 percent declared as “others” in terms of nationality.<sup>35</sup> Another report also prepared by the Ministry in 2016 contains data on proportional representation of national minorities in the Police Administration. Out of the total of 3,858 employees, 3,377 (87.53 percent) filled out the questionnaire. The results show that 83.00 percent of Montenegrins; 6.60 percent of Serbs; 5.09 percent of Bosniaks; 2.49 percent of Muslims; 1.33 percent of Albanians; 0.09 percent of Roma; 0.09 percent of Croats; and 0.15 percent of “others” are employed at the Police Administration.<sup>36</sup> The data

<sup>34</sup> Report by the Ministry for Human and Minority Rights on employment and the situation in administrative areas for 2014. Podgorica, 2015, p. 7. Available at: <http://www.mmp.gov.me/pretraga?query=izvje%u0161taj&publishedFrom=01.01.2015&publishedTo=01.03.2015&siteId=48&contentType=2&searchType=4&sortDirection=desc> (20 October 2017).

<sup>35</sup> Report by the Ministry for Human and Minority Rights on employment and the situation in administrative areas for 2015. Podgorica, 2016, p. 11. Available at: <http://www.mmp.gov.me/pretraga?query=izvje%u0161taj&siteId=48&contentType=2&searchType=4&sortDirection=desc> (20 October 2017).

<sup>36</sup> Report by the Ministry for Human and Minority Rights on employment and the situation in administrative areas for 2016. Podgorica, 2017, p. 7. Available at: <http://www.mmp.gov.me/biblioteka/izvjestaji> (20 October 2017).



presented above indicates that proportional representation of minority peoples and other national minority communities has still not been achieved. Although there is a trend of growth of proportional representation of certain communities,<sup>37</sup> other communities are significantly underrepresented in state administration bodies. Proportional representation of all ethnonational communities in government bodies, state administration and local self-government bodies, as guaranteed by the Constitution and the relevant laws, is a prerequisite for a successful democratisation of the society.

Political representation of national minority communities at local level is an area of integration which is yet to be addressed in detail. The right to authentic representation and the right to proportional representation are both implemented at local level. Local self-government bodies in areas where minority communities constitute the majority of the population, ought to fulfil the requirements of those communities, as they are being met at the national level, in line with the multiculturalism model. Integration at all levels can only be achieved in this manner, taking into account the specificities of different local contexts, which further leads to prevention of discrimination and to equal representation of all ethnonational and ethno-cultural communities. There are no precise analyses of ethnic and national structures in local self-government bodies. The situation with data on the Roma ethnic community is somewhat better. Bearing in mind the territorial concentration of members of this community in certain local self-government bodies and their high position, a total of seven local self-government bodies commenced preparing local action plans with the goal of enabling their integration.<sup>38</sup> Although the

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<sup>37</sup> Report by the Ministry for Human and Minority Rights on employment and the situation in administrative areas for 2015. Podgorica, 2016, p. 11. Available at: <http://www.mmp.gov.me/pretraga?query=Izvjue%u0161taj&siteId=48&contentType=2&searchType=4&sortDirection=desc> (20 October 2017).

<sup>38</sup> Local action plans have been adopted in Nikšić, Berane, Herceg Novi, Bijelo Polje, Ulcinj, Tivat and Kotor. They include the introduction of "empty seats" with the right to voicing opinions even without the right to vote when decisions are being made on matters relating to members of these communities. Additionally, the plan includes employing one person in the local self-government body in charge of promoting the position of members of those communities at local level.

issue of implementation of local action plans was recognised as highly significant by the Ministry for Human and Minority Rights, in relation with the Strategy for Improving the Position of Roma and Egyptians in Montenegro 2012-2016, this topic has remained at the level of discussion.<sup>39</sup>

## Concluding Remarks

The model of multiculturalism as applied in Montenegro mainly corresponds to the model of multiculturalism for national minorities. From the introduction of a multiparty system, the provision and implementation of minority rights policy has become increasingly significant, primarily as a result of the needs of particular political situations. This is particularly typical for the period following Montenegro's renewal of independence, when it started forming a solid legal and institutional framework for ethnonational and ethno-cultural minority groups exercising their rights. In that context, the Constitution of Montenegro, adopted in 2007, and the relevant laws that addressed this matter, played the most significant role. Therefore, at the formal, legal and institutional levels, it can be said that Montenegro does apply the mechanisms and measures of multiculturalism policy. However, there are certain normative limitations that ought to be resolved if a successful process of "integration without assimilation" is to be achieved. The limitations primarily refer to a lack of affirmative action measures for members of the Roma and Egyptian ethnic communities that would provide for political representation and secure participation in political decision-making processes. This is necessary for the process of integration of Roma and Egyptian communities, whose members are of the poorest political, economic, and social status. The Roma ethnic community in

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<sup>39</sup> Report on the implementation of the Strategy for Improving the Position of Roma and Egyptians in Montenegro 2012–2016 for 2015, p. 28. Available at: <http://www.gov.me/biblioteka/izvjestaji?pagerIndex=15&alphabet=lat> (20 October 2017). For more on the integration of Roma and Egyptians, and the most critical issues in the area of political participation and representation see: (Vuković-Čalasan, 2017:240-261).

Montenegro does not have a political party that would argue for the authentic interests of this community through participation in decision-making processes in the highest legislative body. The aforementioned normative changes in terms of affirmative action would incite political activism within this community. There are additional challenges in implementing the right to proportional representation of majority of minority peoples and national minority communities. Given the fact that there are no precise records on the national and ethnic structure of employees, it is difficult to gain an insight into the actual state of affairs in terms of proportional employment. However, the results of the aforementioned research clearly indicate the need to invest additional efforts in order to enable the implementation of guaranteed rights. This applies to the state-national and local level. Implementation of the multiculturalism policy in Montenegro implies equal evaluation at both of these levels, which is frequently disregarded. A community that represents a majority at national level, and a minority at local level, can be subject to marginalisation or exclusion at the level of local self-government. Thus, it is important to have precise and reliable data on the implementation of affirmative action measures at local level. Finally, successful implementation of the multiculturalism policy in Montenegro implies adequate engagement of institutions and social actors in strengthening interculturalism, consolidating a political identity built on civic foundations, and creating an adequate environment for the development of plural identities.

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# Macedonian Salad: Managing Virtual Reality among the Imaging of the Nation-State, Dreaming Multiculturalism and Developing Bi-Cultural Policies

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## Abstract

Although the statements by politicians in Macedonia, especially those intended for international public, are dominated by the declaration that Macedonia is a multicultural society and country, many an item related to the Macedonian multicultural model remains obscure, incomplete and dysfunctional in the context of state policy and strategy. Several debates, forums, and discussions on multiculturalism in the non-governmental sector and the media, apart from establishing some fundamental knowledge, also introduced confusion when it comes to multiculturalism, while also failing to usher in a more comprehensive treatment and purposeful application of multiculturalism as a social model. Despite of the rich tradition of Macedonia as a diverse and tolerant society, the political and cultural elites perceive multiculturalism as a 'necessary evil', rather than the basis for equity which would shape the country's future within the globalization flows and present global trends. Lately, and especially after the conflict in 2001, intellectuals and other public actors increasingly voice the opinion that, under the guise of multiculturalism, Macedonia in fact develops into a society which is bi-ethnic, bi-cultural, as well as bi-polar.

*Keywords:* Macedonia, multiculturalism, communities, divided society.

■ Nation-states are products of a quite specific historical development in Europe, enabled by the introduction and rapid

development of capitalism and the capitalist mode of production. From the sixteenth century onwards, European nation-states have developed simultaneously with the formation of modern (ethno) nations. Through this process, the states have acquired ethnic characteristics and identities. Dominant ethnic communities on certain territories usually determined ethnic identities of the nation-states. States are understood as specific, or even exclusive means and mechanism to assure the implementation of certain (national) interests of (ethno) nations. The European states were established as nation-states of certain nations – i.e. ‘single-nation states’ - and are still perceived as such. This concept can be illustrated by a simple equation: state=nation=people. (Žagar M., 2010:172). Following this line of reasoning, nation-states and their populations were believed to be ethnically and culturally homogenous entities. As the result, a myth of ethnic homogeneity was born, which affirmed the belief that nation-states belonged to certain (ethnic) nations. The myth of ethnic homogeneity was a powerful force in building a common, collective, ethnically-based identity on the territory of a certain state. This myth is, in turn, the basis for the political ideology of nationalism and is, as such, often exploited by nationalist movements and politicians. (Smith A.D., 1991: 194). However, as it is often the case with myths, the myth of nation-states’ ethnic homogeneity does not correspond to reality, as ethnic/cultural plurality has always been the reality for most territories and states. Nationalism is exclusive and/or hegemonic, and it usually entails hostility towards others. Hostile to diversity and pluralism, nationalism is incompatible with liberal democracy.

Initially, multiculturalism was usually perceived as an element of the state’s public life, i.e. of the traditional political framework, especially in the USA. A complex historical context – the presence of indigenous people, import of slaves from Western Africa, diversity of religious groups, Anglo-Saxon origin of the economic and political elite etc. – gave birth to the idea of **‘melting pot’**, a common denominator for the diverse ethnical backgrounds and experiences found on the American continent. A term ‘melting pot’ became synonymous with gradual and quiet assimilation of ‘small’ communities into the dominant and massive cultural/ethnic group within the nation-state.



The **salad bowl** concept suggests the integration of many different cultures in a manner which more resembles making a salad, as opposed to the more traditional concept of cultural melting pot. In Canada, this concept is more commonly known as the “cultural mosaic”. Within the salad bowl model, various cultures are combined — like salad ingredients — but do not merge into a single homogeneous dish, i.e. culture. Each culture keeps its own distinct qualities. This idea proposes a society of many individual ‘pure’ cultures, as opposed to the all-encompassing mixed culture, and the term has become more politically correct than the *melting pot*, since the latter suggests that ethnic groups may become unable to preserve their cultural identities due to the forces of assimilation. Scholars such as Yale University’s Amy Chua argue for a different version of multiculturalism: the salad bowl (Chua A. 2009:10). She emphasizes the “tolerance” of “hyper-powers” in the course of history, while estimating that the United States are on the verge of losing that very ideal present in recent years and stressing her wish for America to remain a tolerant nation in the context of globalization and multiculturalism. Scholars like Chua call for coexistence of different races, ethnic groups, and cultures with their own unique characteristics being preserved, like in a salad bowl, rather than requiring them to assimilate into the single entity created by the dominating majority. (Kolb E., 2009:97)

Indeed, the problem is not that different nation-states with their liberal-democratic social systems have various approaches to the issue of managing the ethno-cultural heterogeneity, but that social, political and other scientific theories neglected the domain of ethno-cultural relations up until mid-1980s, when a couple of political philosophers started dealing with the issue of cultural and ethnic diversity management. One of the reasons for such late interest of scholars and politicians in ethno-cultural diversity is their engagement with the myth of so-called “*ethno-cultural neutrality*”! (Kymlicka W., 1999:3)

Certain theorists argue that this is precisely what distinguishes liberal ‘civic nations’ from illiberal ‘ethnic nations’. Ethnic nations take the reproduction of a particular ethno-national culture and identity to be one of their most important goals. Civic nations, by contrast, are ‘neutral’ with respect to the ethno-cultural

identities of their citizens, and define national membership purely in terms of adherence to certain principles of democracy and justice. For the minorities to seek special rights, in this context, is a radical departure from the traditional operation of the liberal state. Therefore, the burden of proof lies with anyone who seeks to endorse such minority rights. (Kymlicka W., 1999: 8). This is the burden of proof which liberal culturists try to meet with their account of the role of cultural membership in securing freedom and self-respect. They try to show that minority rights supplement, rather than diminish, individual freedom and equality, and help meeting the needs which would otherwise go unmet in a state that clung rigidly to ethno-cultural neutrality.

### **Definition and Official List of the National Minorities in Macedonia**

The Constitution of the Republic of Macedonia stipulates the freedom of expression of national/ethnic identity, and citizens are equal in their freedoms and rights regardless of gender, race, colour, national or social origin, political or religious beliefs, property or social status. All citizens are equal before the Constitution and laws. In the Republic of Macedonia there exists no legal definition or interpretation to explain the terms “parts of nation” or “community”, as presented in the Constitution of the Republic of Macedonia<sup>1</sup>. This lack of a clear definition creates considerable challenges when it comes to defining the legal and political status of the national minorities as well as their role in the public life of the Republic of Macedonia. The manner in which national minorities are defined in the Constitution, as “parts of nation” or as a “community”, also generates discrimination on ethnic grounds when it

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<sup>1</sup> *Official Gazette of the RM*, no. 91/2001: “The citizens of the Republic of Macedonia, the Macedonian people, as well as citizens living within its borders who are part of the Albanian people, the Turkish people, the Vlach people, the Serbian people, the Romany people, the Bosniak people and others taking responsibility for the present and future of their fatherland, aware of and grateful to their predecessors for their sacrifice and dedication in their endeavours and struggle to create an independent and sovereign state of Macedonia...”

comes to the enjoyment of civil and minority rights of the members of the communities living in the territory and being citizens of the Republic of Macedonia. Members of the communities that are not mentioned in the Preamble of the Constitution are excluded from most of the rights enjoyed by the members mentioned in the Preamble of the Constitution of the Republic of Macedonia. (Škarić S. 2016:349). However, there is no article in the normative part of the Constitution (except in the provisions for the Committee for inter-community relations, Article 78 of the Constitution) which restrict the right of so-called “other” communities of the Preamble of the Constitution to take a part in the public life, to preserve their cultural, linguistic, religious and other identity. On the contrary, the Constitution of the Republic of Macedonia is highly liberal and clearly affirms the ethnic, cultural and other diversity of its citizens.

Despite the fact that the normative part of the Constitution does not limit the rights of the communities belonging to the category of “other” communities, they are *de facto* excluded from the wording of many laws and decisions, i.e. the Law on Official Holidays. The Republic of Macedonia signed the Council of Europe’s Framework Convention for the Protection of National Minorities (FCPNM) on 25 July 1996 and ratified it on 10 April 1997. The Convention entered into force on 1 February 1998. In their initial report, the authorities recognized that only the communities that are specifically mentioned in the Preamble of the Constitution would be protected and covered by the FCPNM. In almost every opinion communicated by the Advisory Committee of the Framework Convention for the Protection of National Minorities (FCPNM) to the authorities of Macedonia, they urged the authorities to engage in a dialogue with persons belonging to other groups interested in the protection offered by the Framework Convention. The European Charter for Regional and Minorities Languages (ECRML) was signed by the Republic of Macedonia on 25 July 1996 but has not been ratified since, thus never entering into force.

The last census in 2011 was not successful. A few days before the end of the period allocated for registering the population, the authorities announced that the census had failed. This was followed by no comprehensive justification. Many NGOs reported serious violations of legal provisions when conducting the census process in

the field.<sup>2</sup> A number of people without permanent residency in the Republic of Macedonia were registered, and a number of attempts at agitation from ethnic political activists were reported.<sup>3</sup>

The last census before the failed one was held in 2002. On that occasion, numerous complaints and reports were also filed pertaining to the objectivity of the methodology and publishing of the census results, especially when it came to the data concerning ethnic affiliation. There was no monitoring of the collation of data; there were cases where the ethnic identity of entire villages/settlements shifted compared to the previous censuses; there was also a lack of equitable representation in the Census Committee and the Statistical Office, etc.<sup>4</sup>

Table 1. The Ethnic composition of the population in the Republic of Macedonia according to the 2002 census<sup>5</sup>

Ethnic community	Number	%
Macedonians	1,297,981	64.17
Albanians	509,083	25.17
Turks	77,959	3.85
Roma	53,879	2.66
Serbs	35,939	1.78
Bosniaks	17,018	0.84
Muslims	2,553	0.13
Aromanians/Vlachs	9,695	0.47
Egyptians	3,713	0.18
Croats	2,686	0.13
Montenegrins	2,305	0.12

<sup>2</sup> <http://www.time.mk/read/70f23fb638/5edeceaad6/index.html>; <http://www.time.mk/read/70f23fb638/cb457952ba/index.html>,

<sup>3</sup> <http://www.vecer.com.mk/?ItemID=D4CBA8A94A1C254B88004BC37D2EE076>; <http://www.freedomhouse.org/report/nations-transit/2012/macedonia>

<sup>4</sup> <http://www.utrinski.com.mk/?ItemID=CDA5FF5FC569DB499D12F5FEDF95AB80>, <http://www.netpress.com.mk/mk/vest.asp?id=78559&kategorija=1>, <http://star.dnevnik.com.mk/?pBroj=2329&stID=26572>, <http://www.podgorci.info/torbeska%20deklaracija.pdf> p. 6; <http://star.dnevnik.com.mk/default.aspx?pbroj=2898&stID=66076>

<sup>5</sup> The Statistical Office of Macedonia, Census 2002.

Hungarians	2,003	0.11
Bulgarians	1,417	0.07
Greeks	422	0.02
Others – communities of fewer than 400 members	1,371	0.07
Regionally affiliated	829	0.04
Non-declared	3,431	0.16
<b>Total</b>	<b>2,022,547</b>	<b>100</b>

In general, there have been a lot of controversies concerning the figures about ethnic composition in the Republic of Macedonia. The table below gives some indication to demographic shifts and fluctuation in identity politics in the census in the Republic of Macedonia historically.

Table 2: Population in the Republic of Macedonia according to censuses 1953-1994<sup>6</sup>

Year	1953	1961	1971	1981	1991	1994
Macedonians	860,699	1,000,854	1,142,375	1,279,323	1,328,187	1,288,330
Albanians	162,524	183,108	279,871	377,208	441,987	442,914
Turks	203,938	131,481	108,552	86,591	77,080	77,252
Roma	20,462	2,606	24,505	43,125	52,103	43,732
Vlachs	8,668	8,046	7,190	6,384	7,764	8,467
Serbs	35,112	42,728	46,465	44,468	42,775	39,260
Bosniaks						7,244
Egyptians					3,307	3,169
Croats	2,770	3,801	3,882	3,307	2,878	2,178
Montenegrins	2,526	3,414	3,246	3,920	3,225	2,281
Muslims	1,591	3,002	1,248	39,513	31,356	15,315
Others	13,111	19,180	38,350	32,884	52,712	36,922

These data evidence that the Republic of Macedonia has actively been engaging with the questions concerning ethnic and identity processes. Furthermore, the fluctuation in the number of

<sup>6</sup> According to the information the Statistical Office of the Republic of Macedonia.

national minorities' members identified in this table, raises questions about the meaningfulness of the legal provision which stipulates that equitable representation should be based on the official data from "the last census", unless a more updated census is to be conducted instantly.

## Macedonian Multicultural Dichotomy

The Republic of Macedonia is considered by the ethnic Macedonians to be their "natural" country, and they consequently do not allow enough 'space' for Albanians and other communities. In this way, multicultural space where cultural differences are pronounced and nationalisms which pretend to homogenize political and public life have become normal phenomena. The political elites of the two main communities in Macedonia – Macedonians and Albanians, are pretending to make asymmetrical state governance, neglecting the needs of other communities living in the country. (Stankovic Pejanovic V. 2016: 367). The implementation of the so-called Ohrid Framework Agreement from 2001, established the fundamentals of *de facto* bi-cultural, bi-national state, where the Macedonians and the Albanians are constructing two ethno-political elites, while other minorities barely participate in the political life.

### *Legal framework*

There are several laws governing the protection of communities and their cultural, linguistic, religious and other identities in the Republic of Macedonia.

*The Law on the Promotion and Protection of the Rights of Persons Belonging to Communities That Are Less than 20% of the Population in Macedonia*<sup>7</sup>

The law generally provides for constitutionally guaranteed rights of the communities. The law stipulated the setup of an

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<sup>7</sup> *Official Gazette of the RM*, no. 92/2008.

Agency, in order to harmonize the implementation of the provisions of the Ohrid Framework Agreement dealing with the protection of minorities and securing the exercise of rights for the communities making up less than 20% of the population. The *Agency for the Implementation of Rights of Communities* has been tasked with providing support to the Government in implementing of strategic, legal and constitutional priorities, and in particular, ensuring equitable representation in the state administration of the citizens belonging to the communities. Article 17 of the Law stipulates the setup of a special fund within the Agency. The fund should be financed from the budget of the Republic of Macedonia in order to implement and promote the rights of minority communities. Allocation of funds is based on a competition announced by the Agency.

*The Law on the Committee for Inter-Ethnic Relations*<sup>8</sup>

The Law provides guidelines for the election and composition of a Committee for Inter-Ethnic Relations. According to the Law, the Committee shall consist of 19 members, of whom Macedonians and Albanians have 7 members each, while Turks, Vlachs, Roma, Serbs and Bosniaks have 1 member each. The law further stipulates that in case one of the communities does not have representatives in the Parliament, the Ombudsman, after consultation with relevant representatives of those communities, shall propose the remaining members to the Committee.<sup>9</sup>

*The Law on Local Self-Government*<sup>10</sup>

Article 41 of the Law regulates decision-making procedures within municipal councils, stipulating that a decision shall be made by a majority vote. Regulations pertaining to culture, the use of a language spoken by less than 20% of the population in the municipality and the endorsement and use of the coat of arms and flag of municipality shall be adopted by the majority vote of the present members of the Municipal Council. Decisions must obtain a majority

<sup>8</sup> *Official Gazette of the Republic of Macedonia*, no. 150/ 2007.

<sup>9</sup> The composition of this Committee is also stipulated in Article 78 of the Constitution.

<sup>10</sup> *Official Gazette of the RM*, no. 5/2002.

of the votes from those council members present who belong to the communities that are not the majority population in the municipality.

Article 55 of the Law stipulates that in the municipalities where at least 20% of the total population – according to the last population census – belongs to a certain community, Inter-Community Relations Committee (CICR) shall be established. The Committee shall be composed of an equal number of representatives from each community represented in the municipality. The Committee shall consider issues concerning the relations between the communities represented in the municipality and provide opinions and suggestions pertaining to the ways to address them. The municipal council is obliged to consider the opinions and proposals.

#### *The Law on Political Parties*<sup>11</sup>

The law defines the rules for establishment, registration and dissolution of political parties. According to the Law, a political party may be established with the support of at least 1,000 adult citizens. Ethnic identity is at the core of the party system in the Republic of Macedonia, and it is used in party identification, as well as voters' mobilization.

#### *The Law on Primary School*<sup>12</sup>

The Law stipulates the rules for implementation of the compulsory primary education in primary schools, as well as activities related to primary education. This law guarantees the communities' right to education in their mother tongues. The law also guarantees the engagement of teachers who can teach pupils from various communities in their mother tongues; keeping of education records in languages other than Macedonian for the members of various communities; publishing and use of educational textbooks in the language of various communities; as well as participation of the communities' members in the boards for evaluation of textbooks.

<sup>11</sup> *Official Gazette of the RM*, no. 76/04 – decisions by the Constitutional Court of the RM 12/2007-0-0; 15/2007-0-0; 23/2007-0-1; amendment to other law - 05/2007; amendment to other law 07/2008

<sup>12</sup> *Official Gazette of the RM*, no. 103.08 - decisions by the Constitutional Court of the RM 202/2008; 212/2008; 234/2008; amendment to other law 33/2010; 116/2010; 156/2010; 18/2011; 42/2011; 51/2011; 6/2012; 100/2012



### *The Law on Secondary Education*<sup>13</sup>

The Law regulates the organization, functioning and management of secondary education. The right to education in a national minority language is guaranteed, so is the issuing of certificates of national minority language education and the approval of educational textbooks in minority languages. The law stipulates the practicing of equitable participation for all communities in the election of educational staff.

### *The Law on Textbooks for Primary and Secondary Education*<sup>14</sup>

The Law governs the production and approval of textbooks for primary and secondary education. Monitoring and assessment of these textbooks' use in educational activities is also regulated. All these processes are managed by the National Committee for Textbooks, where equitable participation of all the communities shall be practiced (Article 7 p. 4) According to the law, a textbook can be withdrawn from use if containing material that is found to be insulting to the history, culture or values held by the citizens of the Republic of Macedonia, the Macedonian people, or by the citizens living within its borders, including Albanians, Turks, Vlachs, Serbs, Roma, or Bosniaks, as well as other groups living within the borders of the Republic of Macedonia.

### *The Law on Culture*<sup>15</sup>

The Law determines those elements of culture that are considered fundamental values of the state in the Republic of Macedonia. The law covers the various forms of cultural achievements, the manner and conditions of their financing, and other issues related to culture. The following activities are considered to

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<sup>13</sup> *Official Gazette of the RM*, no. 52/2002 – decisions by the Constitutional Court of the RM 31/2005; 102/2005; 226/2008; amendment to other law 40/2003; 42/2003; 67/2004; 55/2005; 113/2005; 35/2006; 30/2007; 49/2007; 81/2008; 92/2008; 33/2010; 116/2010; 156/2010; 18/2011; 51/2011; 6/2012; 100/2012.

<sup>14</sup> *Official Gazette of the RM*, no. 98/2008 – amendment to other law 99/2009; 83/2010; 36/2011; 135/2011; 46/2012.

<sup>15</sup> *Official Gazette of the RM*, no. 59/2003 – decision by the Constitutional Court of the RM 196/2007; – amendment to other law 82/2005; 24/2007; 116/2010; 47/2011; 51/2011.

fall within the purview of the Law on culture: cultural production, presentation of creative work, as well as protection and use of creative work. One of the priorities is “providing conditions for realization and protection of cultural identity of communities” in the Republic of Macedonia.

*Law on the Use of a Language spoken by at least 20% of the Citizens of the Republic of Macedonia and Local Government Units*<sup>16</sup>

The Law regulates the use of minority languages spoken by at least 20% of population at the national level or within the various units of local self-government. This includes the use of such minority languages in the Parliament, in communication between citizens and ministries, in court procedures and in public life.

*Law on the Use of Communities' Flags in the Republic of Macedonia*<sup>17</sup>

The Law regulates the manner in which the communities in Macedonia can use flags to express their identity and characteristics in public, official and private life.

*The Law on Holidays*<sup>18</sup>

According to the provisions of the Law, the following days are designated as official non-working holidays: 22 November (for the members of the Albanian community), 21 December (for the members of Turkish community), first day of Yom Kippur (for the members of the Jewish community), first day of Christmas, second day of Easter and All Saints holiday, according to the Gregorian calendar (for the members of the Catholic community), 27 January (for the members of the Serbian community), 8 April (for the members of the Roma community), 23 May (for the members of the Vlach community) and 28 September (for the members of the Bosniak community).

<sup>16</sup> *Official Gazette of the RM*, no. 101/2008

<sup>17</sup> *Official Gazette of the RM*, no. 58/05 – decision of Constitutional Court of R.M. 133/2005-0-1; amendment to other law 100/2011.

<sup>18</sup> *Official Gazette of the RM*, no. 21/98 – amendment to other law 18/07.

## ***Bodies Involved in the Protection of Minority Rights***

### *The Committee for Inter-Community Relations*

The Committee was established under Amendment XII of the Constitution, referring to Article 78. The Committee consists of 19 members, of which 14 are parliamentary representatives of Macedonians and Albanians (7 members each), while the Turks, Vlachs, Roma, Serbs and Bosniaks have one representative each. The article further states that if one of the communities does not have representatives, the Public Attorney (the Ombudsman), after consultation with relevant representatives of those communities, shall propose the remaining members of the Committee. The Assembly elects the members of the Committee.

The Committee considers issues pertaining to inter-community relations in the Republic, makes evaluations and offers proposals for their solution. The Assembly of the Republic of Macedonia is obliged to consider the opinions and proposals of the committee.

According to the Law on the Committee for Inter-Community relations<sup>19</sup> (Article 9) the Committee shall consider issues regarding the relations among the communities in the Republic of Macedonia, and especially:

- *monitor the provision of the rights stipulated in the Constitution and law to the members of the communities that are not the majority in the Republic of Macedonia;*
- *conduct the principal review of the issues pertaining to community relations and the implementation of laws, other regulations and general acts that regulate the relations between communities;*
- *indicate the need for the adoption of laws, other regulations and general acts that regulate the relations between communities;*
- *ensure the right to use the language and alphabet of the communities which are not in the majority in the Republic of Macedonia, as stipulated within the Constitution and the Law;*
- *ensure in the field of education, the enforcement of the right to instruction in the language of the communities that are not in the*

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<sup>19</sup> *Official Gazette of the RM*, no. 150/ 2007.

majority in the Republic of Macedonia, as stipulated in the Constitution and the Law;

- ensure the enforcement of the right of the communities that are not in the majority in Macedonia to express their identity and characteristics in the field of culture, information, publishing and other areas as stipulated in the Constitution and the Law;
- ensure the implementation of the principle of adequate and equitable representation of citizens of all communities in the state government bodies and other public institutions at all levels.

#### *Committee on the Political System and Inter-Community Relations*

The *Committee on the Political System and Inter-Community Relations* has been set up within the National Assembly of the Republic of Macedonia. The Committee consists of the chairperson and 12 members, with their deputies, all of whom are members of the Assembly. In addition to monitoring the political system in Macedonia, the Committee considers issues such as the right of the various communities to use their respective languages and alphabets; and also aims to ensure the protection of ethnic, cultural, linguistic and religious identities of the communities, as well as other issues related to the political system and community relations.<sup>20</sup>

#### *Agency for the Implementation of Community Rights*

*The Agency for the Implementation of Community Rights*<sup>21</sup> was established under the *Law on Promotion and Protection of the Rights of the Members of the Communities making up less than 20% of the population in the Republic of Macedonia*, adopted on 17 July 2008. The main objective of the Agency is to enable greater integration of the communities' members as equal citizens of the country in all the spheres of social life, while preserving their right to express their ethnic and cultural particularities. The Agency monitors implementation of the laws related to the rights of

<sup>20</sup> <http://www.sobranie.mk/?ItemID=D2DACB3AD239014B8B31650EF00E15C8>

<sup>21</sup> <http://www.aopz.gov.mk/>

communities making up less than 20% of the population of the Republic of Macedonia. According to the provisions of the *Law on Promotion and Protection of the Rights of the Members of the Communities making up less than 20% of the population in the Republic of Macedonia*, the Agency should align its work with that of the *Secretariat for Implementation of the Ohrid Framework Agreement*, the *Department for Development and Promotion of Education in the Languages of Communities' Members* (a department within the Ministry of Education and Science) and the *Department for Affirmation and Promotion of Community Cultures in the Republic of Macedonia* (a department within the Ministry of Culture). The Agency monitors the enforcement and implementation of the activities related to the position, rights, liabilities and development of capabilities of the communities. It also cooperates with NGOs and other organizations that are dealing with the rights of the communities, as well as with municipalities, through sharing opinions and experiences in order to resolve issues related to the exercise of rights of the communities. The Agency regulates the rights of communities entitled to education in their mother tongue, the right to protect cultural identity, the right to form associations, right to employment, etc.

*The Secretariat for Implementation of the Ohrid Framework Agreement (SIOFA)*

*This Secretariat*<sup>22</sup> has a commitment to fully implement the Ohrid Framework Agreement and to provide administrative and expert support to the Deputy President of the Government of the Republic of Macedonia, who is responsible for the implementation of the Framework Agreement. The Ohrid Framework Agreement was signed on 13 August 2001, as a “peace agreement” which brought the conflict in Macedonia to an end. Its main aim has been to promote a peaceful and harmonious development of civil society, by respecting ethnic identity and interest of all citizens. As a result of this Agreement, a list of constitutional and legal reforms was made, which shall be implemented by the Government within a number of spheres.

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<sup>22</sup> <http://www.siofa.gov.mk/>

The Priorities and aims of the SIOFA are as follows:

1. Monitoring and development of equitable participation;
2. Development and improvement of the capacities for analysing political affairs and coordination;
3. Ensuring regular and timely information of the public about the implementation of the Framework Agreement;
4. Coordination, promotion and monitoring of the development of an integral educational system.
5. Coordination, promotion and monitoring of the process of decentralization.
6. Coordination, promotion and monitoring of the progress in the implementation of the *Law on the use of the language spoken by at least 20% of the citizens of the "Former Yugoslav Republic of Macedonia" and the local government units.*
7. Coordination, promotion and monitoring of the progress made in implementing anti-discrimination measures.
8. Development and strengthening of cooperation with civil society organizations.

*The Department for Development and Promotion of Education in the Languages of Communities' Members*

This department is established within the Ministry of Education and Science and consists of two sections:

1. *Section for Albanian, Turkish, Serbian, Roma, Vlach and Bosnian languages;* and
2. *Section for peace and justice for children from all the communities.*<sup>23</sup>

*Department for the Affirmation and Promotion of Community Cultures in the Republic of Macedonia*

This body was founded within the Ministry of Culture, and it also contains two sections<sup>24</sup>:

1. *Section for encouraging and promoting cooperation with neighbouring and European countries for international technical*

<sup>23</sup> <http://www.mon.gov.mk/en/ministerstvo/2010-05-14-08-54-49>

<sup>24</sup> <http://www.kultura.gov.mk/index.php/minister/sektori>

- assistance aimed at fostering and promoting the cultural identity of the communities in the Republic of Macedonia and the support of the Director's Office; and*
- 2. Section for the promotion, advancement and presentation of cultural creative works and the protection, nurturing and presentation of the cultural heritage of the communities in the Republic of Macedonia.*

#### *The Committee for Inter-Community Relations (CICR)*

The establishment of the *Committee for Inter-Community Relations* (CICR) has been stipulated by Article 55 of the Law on Local Self-Government. In the municipalities where a least 20% of the total population (according to the last population census) belongs to a certain community, a CICR has to be established. CICR contains an equal number of representatives from all the communities that are living within the municipality. Municipality Statute regulates the election of the CICR members. The Committee oversees the issues relevant for inter-community relations, and it provides opinions and proposals for solving the issues that emerge. Municipality councils are obliged to consider the opinions and proposals made by the CICR and to take these into account when making decisions.

#### *Ombudsman Office*

The responsibilities of the Ombudsman of the Republic of Macedonia are regulated by the Constitution and the Law on the Ombudsman.<sup>25</sup> The Ombudsman is responsible for protecting constitutional and legal rights of citizens and other persons when they are violated by acts, actions and omissions by state and other bodies, or organizations with public authorities. The Ombudsman shall take actions and measures to protect the principles of non-discrimination and equitable representation of communities at the state level, in the bodies of local self-government and public institutions and services.

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<sup>25</sup> *Official Gazette of the RM*, no. 60/03, 22.09 2003.

## ***Assessment and Issues Concerning Macedonian Multiculturalism***

### *Determination /Identity*

In the Republic of Macedonia, there is no definition of national minorities. The Advisory Committee (AC) of the Framework Convention for the Protection of National Minorities (FCNM) in all three cycles pointed to a non-flexible approach by the Macedonian authorities when it comes to the scope of application of the Framework Convention. In their latest opinion of 7 December 2011, the Advisory Committee urged the authorities to engage in a dialogue with the persons belonging to groups interested in the protection offered by the Framework Convention. In particular, the authorities were encouraged to intensify their dialogue with the representatives of the Egyptian community, and to consider introducing measures leading to the recognition of the status of persons of Croat ethnicity, as a national minority<sup>26</sup>.

Highly interesting is the case of the identity development of the Torbeshi community in Macedonia. The estimated number of this community's members in Macedonia amounts to some 150,000 people while their recognised identity fluctuates between Muslim Macedonian, Albanian and Turkish. However, in the previous 15 years, the identification of people having the Torbeshi identity as a separate and particular community in Macedonia have been causing many reactions in Macedonian political and scientific circles. In 2006, the leader of the Party for European Integration (PEI) Mr. Fijat Canoski, became a member of the Parliament of the Republic of Macedonia, and in his parliamentary addresses he declared that he would represent and protect the interest of the Muslim population in Macedonia known as Torbeshi, or as he liked to say "people of my kind (soj)"! Subsequently, in 2010, the Torbeshian Cultural and Scientific Centre 'Rumelija' was established with Sherif Ajradinoski as its chairman, which in January 2011 proclaimed the 'Torbeshi Declaration', demanding that the Torbeshi community be recognized as a separate community in Macedonia and included in the Preamble of the Constitution of the

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<sup>26</sup> [http://www.coe.int/t/dghl/monitoring/minorities/3\\_FCNDocs/PDF\\_3rd\\_OP\\_REPUBLICOM\\_en.pdf](http://www.coe.int/t/dghl/monitoring/minorities/3_FCNDocs/PDF_3rd_OP_REPUBLICOM_en.pdf), p. 10.



Republic of Macedonia. The reaction of the Union of Macedonian Muslims was fervent and imminent, and included organizing scientific public discussions in cooperation with the national institutes of history, Macedonian language and folklore, the Institute of Ethnology and Anthropology, the Institute of Ancient Slavic Culture and the Macedonian Ethnologists Society. Cultural and Scientific Centre 'Rumelija' responded with a public discussion, too, where prominent scholars from Macedonia, Albania, Kosovo and Bulgaria contributed by providing the scientific basis for the recognition of the Torbeshi identity. However, this identity conflict in Macedonia is not limited to scientific circles! On social networks, especially Facebook, the opposing sides are engaged in a proper cyber war. When it comes to parliamentary politics, three Macedonian MPs belonging to this community demanded to be recognised as such and allowed to vote according to the so-called "Badinter majority",<sup>27</sup> but their request was rejected!

#### *Effective Participation in Public Life*

The right to participate in the *Committee for Inter-Community Relations* is exclusively reserved for the members of the communities that are mentioned in the Preamble to the Constitution, thus excluding other communities and national minorities. This contradicts the constitutional provision stipulated in the amendment VI to the Constitution, which guarantees adequate and equitable representation for *all* communities in public bodies and public institutions. The specifically defined number and nationality of the members designated to serve on the Committee for Inter-Community Relations, exclude members of the "other" communities living in Macedonia from sitting on the Committee. Representatives of the remaining 10 "other" communities, are thus prevented from representing the interests of their communities, in the Committee, even though the Committee has been granted the mandate to review the issues that directly affect the interests of the citizens belonging to these communities. In practice, the Committee for

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<sup>27</sup> "Badinter majority" is a voting mechanism in the Macedonian Parliament used when laws or decisions concern multicultural issues, where more than 50% of the MPs belonging to minority communities have to vote for the adoption of such laws or decisions.

Inter-Community Relations is, however, almost marginalized in the political system. The number of the sessions held annually by the Committee is quite small (1-2). Furthermore, the most critical issues concerning inter-community relations, inter-cultural communication, or development of multiethnic or multicultural society have never made it onto the Committee's agenda. The influence of the Committee for Inter-Community Relations in the Republic of Macedonia is therefore assessed to have been limited thus far.

In the absence of clear competences, budget and mandate, the *Agency for the Implementation of Communities' Rights* has not undertaken any substantial activities or initiatives to defend the interests of the minorities with a small number of members and is unable to accomplish most of its tasks stipulated by the law.<sup>28</sup> According to Article 17 of the *Law for the Protection of Rights of Communities that make up less than 20% of total population*, a special fund should be created within the Agency, with the aim to create specific programs to implement and promote the rights of the communities. The fund should be financed from the state budget. NGOs should be able to apply for funding from this Fund, based on regular calls for proposals made by the Agency. Unfortunately, we can conclude that in the 9 years since this piece of legislation came into force, the Agency has not published any calls for proposals addressed to the NGOs dealing with the protection and promotion of the rights of communities.<sup>29</sup> Employment in the Agency is reserved only for the members of the communities which make up less than 20% of the total population and are simultaneously mentioned in the Preamble of the Constitution (Turks, Serbs, Vlachs, Roma and Bosnians), even though the principle of equitable representation needs to be observed. The members of the so-called "other communities" have no representative in the Agency that would be responsible for addressing the problems and needs of "other" communities.

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<sup>28</sup> Annual reports of the Agency may be found on: <http://www.aopz.gov.mk/materijali/Izvestaj%20za%202011.pdf> EC progress reports for 2009, 2010 and 2011 refers to lack of capacities and funds of the Agency to fulfil its mission.

<sup>29</sup> [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/mk\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/mk_rapport_2010_en.pdf), (pp. 21-22).

In practice, the *Secretariat for Implementation of the Ohrid Framework Agreement* (SIOFA) has focused much of its attention on increasing employment of the largest national minority in the Republic of Macedonia, the Albanians. In all mandates, the responsible person for the SIOFA (deputy Prime Minister) has been an ethnic Albanian.<sup>30</sup> Only a few less significant projects have focused on other (non-Albanian) minority communities in Macedonia. It is assessed that the SIOFA have not provided sufficient, regular and comprehensive information about the progress in the implementation of the Ohrid Framework Agreement. In the 2010 Progress Report for the country, EC indicated: "SIOFA still lacks administrative and strategic planning capacities, while the application of the human resources and internal control standards are insufficient."<sup>31</sup> The 2010 EC Progress Report further concludes that "Nine years after the signature of the Ohrid Framework Agreement the SIOFA has so far not produced a report on its activities and the progress achieved in implementing the OFA."<sup>32</sup> The 2010 EC Progress Report assessed that "monitoring and coordination of the implementation of the Ohrid Framework Agreement among all administrative bodies concerned is still weak", and that "greater efforts are needed to ensure its effective implementation and full respect of the spirit of the Ohrid Framework Agreement."<sup>33</sup> The 2010 EC Progress Report also concluded that "efforts are needed to foster enhanced trust between the ethnic communities, especially in the areas of culture and language"<sup>34</sup>. According to the EC progress report from 2011, the

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<sup>30</sup> [http://www.seeu.edu.mk/files/research/projects/OFA\\_MK\\_Final.pdf](http://www.seeu.edu.mk/files/research/projects/OFA_MK_Final.pdf); Risteska M & Daskaloski Zh (eds), 2011, One Decade after the Ohrid Framework Agreement: Lessons (to be) Learned from the Macedonian Experience, Center for Research and Policy Making, Skopje. ([http://www.crpm.org.mk/?page\\_id=695](http://www.crpm.org.mk/?page_id=695))

<sup>31</sup> [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/mk\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/mk_rapport_2010_en.pdf), p. 21.

<sup>32</sup> [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/mk\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/mk_rapport_2010_en.pdf), p. 21.

<sup>33</sup> [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/mk\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/mk_rapport_2010_en.pdf), p. 21.

<sup>34</sup> [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/mk\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/mk_rapport_2010_en.pdf), p. 21.

SIOFA strategic planning capacities and internal control standards remained low.<sup>35</sup> The EC Progress Report for 2012 concluded that the SIOFA recruited new senior staff, but further significant efforts are necessary to strengthen the capacity of the SIOFA<sup>36</sup>.

Thus far, neither the *Department for the Development and Promotion of Education in Languages of Members of Communities* within the Ministry of Education, nor the *Directorate for cultural promotion and improvement of the communities* within the Ministry of Culture, have produced any annual reports. Thus, none of the above-mentioned bodies have been able to demonstrate transparency or public visibility.

The high threshold needed for establishing where and when a community make up at least 20% of the total population in a municipality, presents a strong barrier for establishing *Committee for Inter-Community Relations* (CICR) in many regions of the Republic of Macedonia. Even though all 84 municipalities in Macedonia are multiethnic and multicultural, only 20 municipalities – that is 24% of the municipalities – have made a legal commitment to establish a CICR. Only 6 out of these 20 municipalities are mixed urban and rural municipalities; the remaining 14 are rural municipalities. Such high threshold for establishing CICRs prevents institutional dialogue and the development of tolerance at the municipality level in many parts of the country. However, as a gesture of “good will”, CICRs have been established on voluntary basis in 14 additional municipalities even though the threshold of a community making up 20% of the population has not been reached. A small number of the CICRs improved their capacities and visibility within their community. According to the EC progress reports, their effectiveness is limited by poor operational capacity, unclear competences and weak status.<sup>37</sup> Their role is still largely unknown to the public, and their recommendations are often

<sup>35</sup> [http://ec.europa.eu/enlargement/pdf/key\\_documents/2011/package/mk\\_rapport\\_2011\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/mk_rapport_2011_en.pdf), p. 19.

<sup>36</sup> [http://ec.europa.eu/enlargement/pdf/key\\_documents/2012/package/mk\\_rapport\\_2012\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/mk_rapport_2012_en.pdf), p. 17.

<sup>37</sup> [http://ec.europa.eu/enlargement/pdf/key\\_documents/2011/package/mk\\_rapport\\_2011\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/mk_rapport_2011_en.pdf) (p. 20); [http://ec.europa.eu/enlargement/pdf/key\\_documents/2011/package/mk\\_rapport\\_2011\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/mk_rapport_2011_en.pdf) (p. 21).

neglected. In many municipalities, the committees are not functional and their composition does not reflect the ethnic structure of the local population, or they have insufficient representation of the ethnic communities living in the municipality.

The Ombudsman office issues an annual report about the monitoring of equitable representation in public institutions.<sup>38</sup> The data presented in the report is collected on the basis of feedback from questionnaires that are disseminated to all state and public institutions. In 2012, the Ombudsman office received feedback from 972 of 1082 institutions that were requested to fulfil the questionnaires. The remaining 110 did not respond or submit data. The Ombudsman office does not have any legal instrument for sanctioning institutions that do not respond to their call for submitting the data about equitable representations of all communities in state and public institutions. This limits the impact the Ombudsman office is able to assert on the implementation of national minority rights in practice in the Republic of Macedonia.<sup>39</sup>

Even though the numbers of voters belonging to national minorities in the Republic of Macedonia is sizeable (more than 25 % of Albanians and around 15% of other minorities), the present division into six electoral units for parliamentary elections and proportional electoral model does not allow political representatives of smaller minorities to collect enough votes for electing independent candidates. Minority political representatives and parties must make pre-electoral coalitions with mainstream parties if they want to enter into parliament, but their influence in such cases is very limited. Minority political representatives have frequently required the establishment of a seventh electoral unit for minorities to span the entire territory of the country, but this request has never been seriously considered.

### *Education*

Minority NGOs lack adequate information about the diversity of society, promotion of culture and cultural values of national

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<sup>38</sup> <http://ombudsman.mk/ombudsman/upload/documents/2012/SPZ-lzvestaj%20-2011.pdf>

<sup>39</sup> [http://www.coe.int/t/dghl/monitoring/minorities/3\\_FCNMdocs/PDF\\_3rd\\_OP\\_REPUBLICOM\\_en.pdf](http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_3rd_OP_REPUBLICOM_en.pdf) (pp.12-13).

minorities, education about multiculturalism and inter-cultural communication. The Advisory Committee of the FCNM in its latest opinion for the country recommend that “the authorities should continue to review the existing textbooks in consultation with minority representatives, with a view to ensuring a better reflection of the history, culture, traditions, and the current situation of national minorities, which should form a part of the curriculum for all students in order to foster mutual respect and understanding”. The FCNM Advisory Committee further calls upon “the authorities to step up their efforts to create opportunities for contact among school children of different ethnic backgrounds in the school context and by organising joint curricular and extra-curricular activities.”<sup>40</sup> The issue of separated/segregated schools or ethnic shifts is very sensitive and politicized in the Republic of Macedonia. Division along ethnic lines between the two major communities (Macedonians and Albanians) is very present in schools in the western part of the Republic of Macedonia, as well as in the capital of Skopje.

Although education in minority languages is guaranteed by the Constitution and by law, especially for those communities mentioned in the Preamble of the Constitution, in practice, this provision is mainly implemented for the Albanian community. In schools where the number of pupils does not fulfil the necessary conditions for establishing a class to be instructed in their mother tongue, it would be possible to organize classes at the municipality level. But no such activities have thus far been undertaken, especially for the smaller minorities.

The organization of bilingual education is a very delicate issue, and one that is difficult to implement in practice. This has particularly been the case with attempts at encouraging bilingual education in municipalities where majority of population are Albanians. Challenges are encountered both in terms of reluctance within the Albanian community towards learning the Macedonian language, and similarly, reluctance towards learning the Albanian language among the Macedonians living in the areas that are

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<sup>40</sup> [http://www.coe.int/t/dghl/monitoring/minorities/3\\_FCNDdocs/PDF\\_3rd\\_OP\\_REPUBLICOM\\_en.pdf](http://www.coe.int/t/dghl/monitoring/minorities/3_FCNDdocs/PDF_3rd_OP_REPUBLICOM_en.pdf), pp. 23-24.

predominantly Albanian.<sup>41</sup> In municipalities and school areas where the majority of population is Albanian, a number of schools have been renamed with names of Albanian historical figures. This has caused uncertainty about the competences of the local and national institutions, since according to the Law on Primary Education the decision made by school councils shall be verified by the Ministry of Education. On the other hand, however, under the Law on Local Self-Government, the management of schools falls under the competences of the municipalities.

### *Media*

Within the legal framework, incitement to national, religious and ethnic hatred is considered a criminal offense. However, despite the fact that considerable amount of hate speech has appeared in print in both new and traditional media, there has not been a single indictment against hate speech taken to court. The discourse of hate speech is perceived in public the freedom of expression rather than a threat to the human rights of minorities and marginalized groups. This greatly contributes to the passive stance of the self-regulatory and regulatory mechanisms. Civil organizations have addressed the issue in public on several occasions, but in context of their other activities. An additional problem is the low level of media literacy within the civil society sector, and Macedonian society in general. They are simply not able to recognize hate speech for what it is, or they misinterpret it.<sup>42</sup> The mainstream media are very reluctant to inform on minority issues and the challenges met by the members of national minorities. For example, no media informed the public about the latest opinion of Advisory Committee of the FCPNM.

On the other hand, in the public broadcast service, the second channel has been devoted entirely to broadcasting in the languages of national minorities. There are 65 hours a week of broadcasting in Albanian, 17½ hours in Turkish, and 1½ hours in Serbian, Romani, Vlach and Bosnian each. The Advisory Committee

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<sup>41</sup> [http://www.unicef.org/tRepublicmacedonia/INCLUSIVE\\_REPORT\\_MKD.pdf](http://www.unicef.org/tRepublicmacedonia/INCLUSIVE_REPORT_MKD.pdf)

<sup>42</sup> <http://okno.mk/sites/default/files/048-Crna-kniga.pdf> , <http://global-voicesonline.org/2011/03/31/macedonia-bulgaria-facing-hate-speech/>

of the FCNM recommended the authorities "...to develop and support initiatives to increase mutual understanding and intercultural dialogue through the media. Whilst fully respecting the editorial independence of the media, they should identify means of encouraging the latter to develop multicultural programs and promote dialogue between different communities both through content and through a more inclusive choice of participants in media dialogue".<sup>43</sup> The FCNM Advisory Committee also noted that "greater attention should be paid to vocational training for journalists and other media professionals, especially to those working in multicultural environments", and that "efforts made by the media themselves and by associations of media professionals to strengthen their systems of self-regulation and self-monitoring should be encouraged and supported".<sup>44</sup>

## Conclusion

In the Republic of Macedonia, the terms 'parts of nation' and 'community' used in the Constitution of the Republic of Macedonia lack either legal definition or interpretation. This situation generates problems of unclarity in the legal framework, political system and public life in Macedonia. The reference to or the lack thereof, of the "parts of nation" or "community" in the Preamble of the Constitution also contributes to discrimination on ethnic basis when it comes to the enjoyment of civil and minority rights by members of the communities living in the territory and who are citizens of the Republic of Macedonia. Members of the communities not mentioned in the Preamble of the Constitution are excluded from most of the rights enjoyed by the members mentioned in the Preamble of the Constitution of the Republic of Macedonia.

The main pillar in implementing minority rights is the Ohrid Framework Agreement (OFA) from 2001, which brought peace

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<sup>43</sup> [http://www.coe.int/t/dghl/monitoring/minorities/3\\_FCNMdocs/PDF\\_2nd\\_OP\\_REPUBLICOM\\_en.pdf](http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_2nd_OP_REPUBLICOM_en.pdf), p. 22.

<sup>44</sup> [http://www.coe.int/t/dghl/monitoring/minorities/3\\_FCNMdocs/PDF\\_2nd\\_OP\\_REPUBLICOM\\_en.pdf](http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_2nd_OP_REPUBLICOM_en.pdf), p. 22.



after the country's war conflict. While the Peace Agreement ended the conflict in the country, it has not contributed to solving the issues regarding cultural rights of minorities and their protection. One of the unintended consequences following the implementation of the OFA, is that the Republic of Macedonia has slowly transformed from a multicultural to a bi-cultural state and society. This is largely because political and public attention has overwhelmingly focused on Macedonian-Albanian inter-ethnic relations and confrontations. There have nevertheless been some improvements when it comes to equitable representation of Albanians and the other communities mentioned in the Preamble of the Constitution in Macedonian society, as the percentage of participation and representation in both cases have increased. While certain laws dealing with the protection of minorities have been created and adopted, the attempts to implement these in practice have generally been met by considerable obstacles, and tendency to postpone their implementation perceiving these as 'non-urgent issues'.

Macedonian multicultural model places Macedonia on the list of countries with the so-called "Negative concept of protection of national minorities", especially when it comes to those minorities that do not amount to 20% of the total population in Macedonia. This means that the state responds only when violation of the rights is reported by the victims (interested parties), without including the minorities, as active, influential and equal entities of the plural society and its political composition.

A low level of inter-cultural communication, development of fragmented (parallel) societies, low level of multicultural education and tolerance to diversities, formal and not influential participation in public life and decision-making processes by the members of minority communities, non-sensitivity of the society to minorities' issues etc., are the main challenges related to minority protection in the Republic of Macedonia.

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## About the authors

■ Goran Bašić (e-mail: basicgoran11@gmail.com) is a Principal Research Fellow at the Institute of Social Sciences in Belgrade ([www.idn.org.rs](http://www.idn.org.rs)). He is the Director of the Institute (since 2015), Secretary of the Serbian Academy of Sciences and Arts Commission for Study of Human and Minority Rights and a member of the Council of Europe Advisory Committee for monitoring the Framework Convention for the Protection of National Minorities. He is the founder of the Ethnicity Research Centre ([www.ercbgd.org.rs](http://www.ercbgd.org.rs)) and coordinator of the Academic Network for Research Support in Southeast Europe. Goran Bašić holds a PhD from the Faculty of Political Sciences of the University of Belgrade. He has authored eight monographs (*Multiculturalism and Ethnicity*, 2018; *From Segregative to Integrative Policy of Multiculturalism*, 2015; *Temptations of Democracy in a Multiethnic Society*, 2006; *Political Action*, 2010, etc.) and more than a hundred papers on ethnicity and multiculturalism.

■ Ružica Jakešević (e-mail: ruzica.jakesevic@fpzg.hr) is an assistant professor at the Faculty of Political Sciences, University of Zagreb and the Head of the Center for International and Security Studies ([www.fpzg.hr](http://www.fpzg.hr)). Her field of expertise are international relations and security studies, with particular emphasis on security policies, international organizations and peacekeeping operations. She is the author of one book and numerous scientific articles.

■ Antonija Petričušić (e-mail: antonija.petricusic@pravo.hr) is an Assistant Professor at the Department of Sociology at the Faculty of Law, University of Zagreb, Croatia. She serves as an expert in the Advisory Committee on the Framework Convention for the Protection of National Minorities and is a member of the Human Rights Council of the Croatian Ombudswoman. Her research focuses on Europeanization of the post-conflict states in South-Eastern Europe, with particular reference to democratization, political culture, inter-ethnic relations, minority rights, migration, and asylum.

■ Mirza Smajić (e-mail: smajicmirza@gmail.com) is an Assistant Professor at the Faculty of Political Sciences, University of Sarajevo. Since 2015, Mirza Smajić has held the position of Vice Dean for Student Affairs. He is also a Guest Professor at the Department for Geography of the Faculty of Natural Sciences and Mathematics at the University of Sarajevo. He is a permanent lecturer at the course "Security policy of Bosnia and Herzegovina" organized by the OSCE Mission to Bosnia and Herzegovina and the Ministry of Security of Bosnia and Herzegovina. His major areas of research interest are: security studies, international security, human security, internal (border) security and studies for the implementation of law and police forces. As an author and co-author, Mirza Smajić has published four books and studies, numerous scientific and expertise articles in BiH and abroad.

■ Siniša Tatalović (e-mail: sinisa.tatalovic@fpzg.shr) is a Full Professor at the Faculty of Political Science, University of Zagreb, Croatia ([www.fpzg.shr](http://www.fpzg.shr)) and Visiting Professor at the Faculty of Political Sciences, University of Belgrade. He has been teaching at all levels (B.A., M.A., Ph.D.) at the Faculty of Political Science, University of Zagreb as a course coordinator for various subjects in the field of Political Science, International Relations, National Security and Ethnic Studies.

■ Danijela Vuković-Ćalasan (e-mail: danijelacalasan@gmail.com) is an Assistant Professor at the Faculty of Political Science at the University of Montenegro, Podgorica, Montenegro ([www.ucg.ac.me](http://www.ucg.ac.me)).

She holds a Master's Degree in Political Science from the University of Belgrade (2009) and a PhD in Political Science from the University of Belgrade (2014). She teaches courses in Political Theory, Globalisation, Ethnicity and Ethnic Relations and Political Culture. Her academic fields of interest are ethnic and national relations and identities, globalisation and contemporary political theories (including theory and politics of multiculturalism). She did a research at the Political Science Institute, University of Vienna. She was a visiting professor within the ERASMUS+ programme at Opole University, Poland. Vuković-Ćalasan has authored a monograph and several scholarly papers.

■ Rubin Zemon (e-mail: zemon.rubin@gmail.com) is a cultural anthropologist (ethnologist), Associate Professor at the University Euro-Balkan, Skopje, Macedonia. He is currently appointed as a Special Adviser to the Prime-minster of the Republic of Macedonia for development of multicultural society, interculturalism and inter-cultural communication. His main research fields include identities, ethnicity, protection of national minorities, multiculturalism.

■ Mitja Žagar (e-mail: mitja.zagar@guest.arnes.si) is a Research Councillor at the Institute for Ethnic Studies, Ljubljana, Slovenia ([www.inv.si](http://www.inv.si)), Full Professor at the Universities of Ljubljana and Primorska/Littoral, guest lecturer/professor at several universities abroad and member of the Scientific Council of the Slovenian Research Agency. His main research fields include human rights, protection of minorities, international and comparative constitutional law, comparative politics, transformation, transition, and diversity management.



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