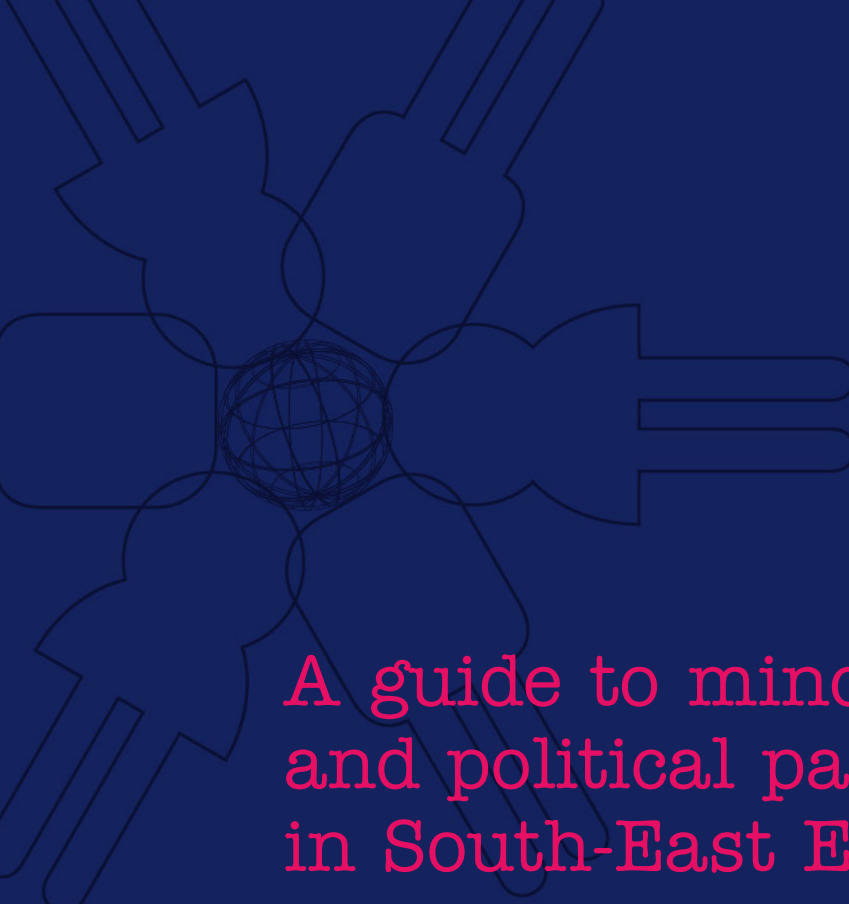
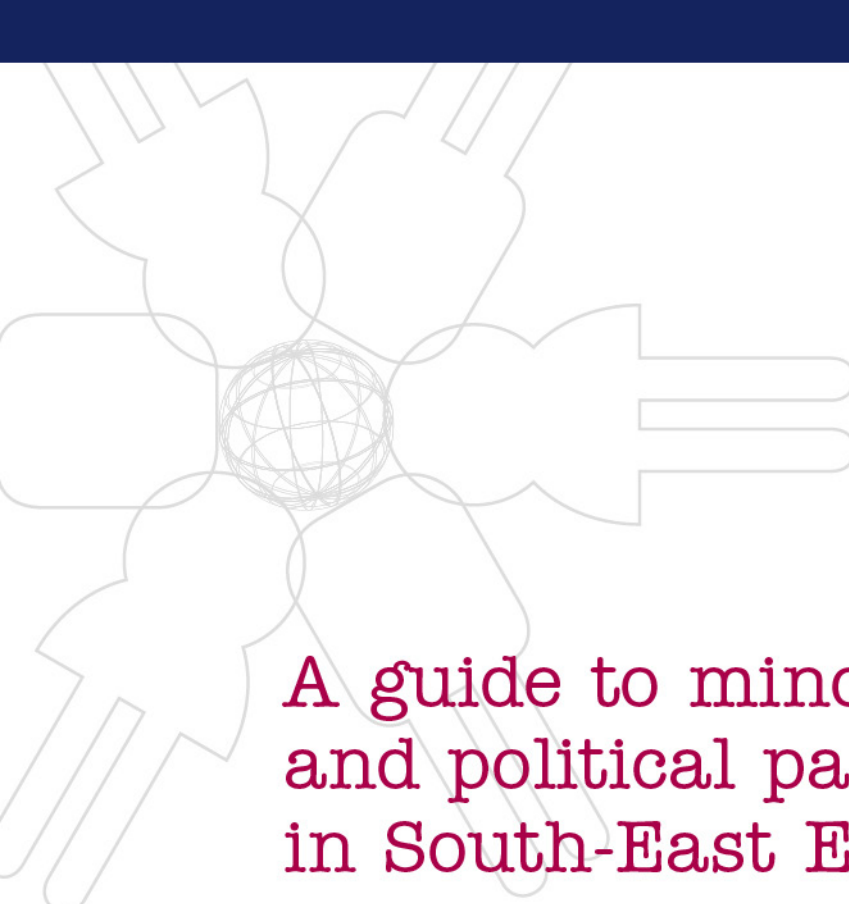


A stylized graphic in the top left corner shows four hands of different shapes (one with three fingers, one with two, one with one, and one with a thumb) holding a globe. The hands and globe are drawn with thin white lines on a dark blue background.

A guide to minorities and political participation in South-East Europe



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2009



King Baudouin
Foundation

Working together for a better society

A joint publication of Common Values and the King Baudouin Foundation

**A GUIDE TO MINORITIES AND POLITICAL PARTICIPATION
IN SOUTH-EAST EUROPE**

A joint publication of the King Baudouin Foundation
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Foreword

From parliamentary representation to power-sharing mechanisms, the political participation of minorities can take many forms. However, despite the variety of participation instruments available in South-East Europe, real participation remains limited and lags behind the political rhetoric. One of the reasons for this situation is the lack of awareness among the majority about the points of view and specific needs of minorities and a lack of understanding that the political participation of minorities benefits not only minorities themselves, but the whole of society.

Indeed, all political decisions and their implementation have greater validity, better quality and improved chances of success if minority representatives take part in them along with representatives of the majority. Moreover, since minority concerns lie at the heart of all major areas of state policy, those concerns should be mainstreamed, particularly in educational, social and regional development policies and in connection with legislative reform. This would allow minority issues to be addressed in a more comprehensive and efficient manner.

Historically, the formation of minority political parties and power-sharing arrangements have contributed to improving inter-ethnic relations and strengthening the position of minorities. However, one has to be aware of the shortcomings of such an approach, such as the risk of ethnicisation of the political debate, as can be seen in countries where parties are organized along ethnic lines and only consider the interests of the community they represent. Moreover, such political representation through political parties is only possible for large and well-organized minority groups.

In this regard, the emerging consultation and representation mechanisms recently established in most South-East European countries represent a promising innovation. Such national or regional councils are intended to allow minority rights issues to be addressed on a local level. This is a challenge in a region where we find ethnically decentralized countries with still largely centralized state governments.

Finally, the political participation of ethnic minorities is not only a major challenge for the sustainability of the democratic transition in this region, but also a precondition for the accession of its countries to the European Union. In this regard, although the EU has been quite consistent in assessing minority rights in the applicant countries, the lack of an effective monitoring system means that new Member States tend to slacken their efforts in this field. This is especially important, as the last two enlargements have brought up minority rights as a key issue for the EU as a whole.

The issue of the political participation of minorities lies at the core of the Minority Rights in Practice in South-East Europe programme, in the framework of which this guide has been published. The following pages draw on contributions made by experts and practitioners at a regional conference held in Skopje on 10-11 March 2008.

The Foundation would like to express its gratitude to its partner, Common Values, for putting together this important event and to the authors of this guide for their invaluable contribution.

King Baudouin Foundation

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Executive summary

Political participation and representation of minorities is an important aspect of a democratic society, ensuring that the interests of the minorities are recognized and realized in the best way possible, in a friendly and open environment and encouraging loyalty to the state among its minorities. In pursuing their interests, minorities often face under-representation or even non-representation in public life. This is frequently due to the majority rule inherent in many political systems and the overwhelming interests of the majority. Contrary to what is generally expected of modern states, it can be assumed that they are not completely neutral with regard to linguistic, religious or cultural issues.

What is the role of political parties in connection with minority participation in general? Which political options have managed to shape a multi-ethnic political landscape? Do ethnically based political parties predominantly attract minority electorates? Do electoral provisions for national minorities (e.g. reserved parliamentary seats for minority MPs or special minority electoral units) raise a risk of intimidation and discrimination? Has political representation been achieved primarily through minority parties on a regional and local level? What role do states play in the establishment and maintenance of minority political parties? These and numerous other issues were the focus of a regional conference entitled 'Political participation of minorities in South-East Europe in the process towards EU integration' held in Skopje, Macedonia, on 10-11 March 2008 to share good practices from the region and to identify common principles and standards in the field. The conference was hosted by the organization Common Values as part of the Minority Rights in Practice in South-East Europe programme of the King Baudouin Foundation, aiming to deepen understanding, exchange experience, increase cooperation and improve the situation in South-East European countries in connection with the political participation and representation of minorities.

On the basis of the material presented at the conference, Common Values has compiled this publication as an instrument to promote a common understanding of the concept of political participation in itself, and as a guide to its application in multi-ethnic communities.

The first chapter is an introduction to the complex and involved area of political participation of minorities, which is unquestionably an important aspect of the broad body of minority rights. Chapter 2 deals with the international framework for minority political participation and representation, both on a universal and regional level and on a legal and political level. The third chapter builds logically on chapter 2 covering the international standards in the field, examining the political and legal requirements of the EU on minority rights in relation to Western Balkan states. Chapter 4 elaborates on the historical and institutional background and the premises for and types of political dialogue between minorities and the majority population. Chapter 5 presents a series of case studies which examines minorities and political parties in a number of South-Eastern European countries. This chapter analyses the states' international commitments, legislation, practices and policies to address the need for appropriate political participation and representation of minorities within their borders. Each country study emphasises positive provisions, practices and policies and highlights existing problems and future challenges. The problem of minority

inclusion in government decision-making is the subject of chapter 6, which outlines the various forms of political representation, either through MPs, governing coalitions or distinctive modes of cultural autonomy, each as a typical model attached to a particular South-Eastern European state. Chapter 7 examines the burning issue of decentralization, predominantly seen through the experience of Macedonia and Serbia.

The concluding recommendations draw on the comparison between the regional experiences and offer suggestions for subsequent steps in addressing minority political participation and representation in the countries of the Western Balkans.

Samenvatting

De politieke participatie en vertegenwoordiging van minderheden is een belangrijk aspect van een democratische samenleving. Het moet ervoor zorgen dat de belangen van minderheden in een welwillende en open omgeving op de best mogelijke manier worden erkend en verwezenlijkt en dat de loyaliteit van de minderheden tegenover de staat aanmoedigt. Wanneer minderheden hun belangen willen verdedigen, blijken zij vaak ondervetegenwoordigd of helemaal niet vertegenwoordigd in het openbare leven. Dit is in veel gevallen toe te schrijven aan het meerderheidsbeginsel dat inherent is aan veel politieke systemen en aan het feit dat de belangen van de meerderheid de bovenhand halen. In tegenstelling tot wat je zou verwachten van moderne staten, staan zij blijkbaar niet volledig neutraal tegenover verschillen in taal, religie of cultuur.

Welke rol kunnen politieke partijen spelen op het vlak van de participatie van minderheden in het algemeen? Welke politieke opties zijn erin geslaagd een multi-etnisch politiek profiel te bevorderen? Trekken politieke partijen die zich baseren op etnische afkomst vooral kiezers uit minderheidsgroepen aan? Veroorzaken bepaalde voorzieningen voor nationale minderheden bij de verkiezingen (zoals het voorbehouden van zetels voor parlementairen van de minderheid of speciale kieskringen voor minderheden) het risico van intimidatie en discriminatie? Is de politieke vertegenwoordiging vooral verworven dankzij minderheidspartijen op regionaal en lokaal vlak? Welke rol spelen staten bij de oprichting en het voortbestaan van politieke partijen van minderheden? Deze en vele andere thema's kwamen aan bod tijdens een regionale conferentie met de titel 'Politieke deelname van minderheden in Zuidoost-Europa in het proces van integratie in de EU' die op 10 en 11 maart 2008 plaatshad in Skopje in Macedonië. Die conferentie was bedoeld om goede praktijkvoorbeelden uit de regio uit te wisselen en gezamenlijke principes en normen op het terrein te bepalen. Gastheer van de conferentie was het vzw 'Common Values', als onderdeel van het programma Minority Rights in Practice in South-East Europe van de Koning Boudewijnstichting dat streeft naar een betere verstandhouding, de uitwisseling van ervaringen, meer samenwerking en een betere politieke participatie en vertegenwoordiging van minderheden in de landen van Zuidoost-Europa.

Deze publicatie is samengesteld door 'Common Values' op basis van het materiaal dat tijdens de conferentie is voorgesteld en is bedoeld als instrument om een gezamenlijk inzicht in het concept van politieke participatie op zich te bevorderen en als handleiding bij het toepassen van dit concept in multi-etnische gemeenschappen.

Het eerste hoofdstuk vormt een inleiding tot het complexe en ingewikkelde terrein van politieke participatie van minderheden, die ongetwijfeld een belangrijk aspect vormt van de ruimere rechten van minderheden. Het tweede hoofdstuk beschrijft het internationale kader voor de politieke participatie en vertegenwoordiging van minderheden, zowel op wereldwijd en regionaal vlak als op juridisch en politiek vlak. Het derde hoofdstuk bouwt logisch verder op het tweede en behandelt de internationale normen op het terrein en onderzoekt de politieke en wettelijke vereisten van de EU op het vlak van minderheidsrechten in de staten van de westelijke Balkan. Hoofdstuk 4 gaat in op de historische en institutionele achtergrond en op de voorwaarden voor en de types van politieke dialoog tussen minderheden en de meerderheidsbevolking.

Hoofdstuk 5 bevat enkele casestudies die ingaan op minderheden en politieke partijen in een aantal Zuidoost-Europese landen. Dit hoofdstuk analyseert de internationale verbintenissen van de staten, de wetgeving, de gewoonten en beleidslijnen om tegemoet te komen aan de nood aan passende politieke participatie en vertegenwoordiging van minderheden binnen hun grenzen. In elke landenstudie ligt de klemtoon op positieve voorzieningen, praktijken en beleidslijnen en wordt gewezen op bestaande problemen en uitdagingen voor de toekomst. Het probleem hoe minderheden te betrekken bij regeringsbeslissingen komt aan bod in hoofdstuk 6, met een overzicht van de verschillende vormen van politieke vertegenwoordiging, via parlementsleden, regeringscoalities of verscheidene vormen van culturele autonomie. Daarbij hoort telkens een typisch model dat in verband wordt gebracht met een specifieke staat in Zuidoost-Europa. Hoofdstuk 7 onderzoekt het prangende probleem van decentralisering, vooral bekeken vanuit de ervaring van Macedonië en Servië.

De aanbevelingen die deze publicatie afsluiten, zijn gebaseerd op de vergelijking tussen de regionale ervaringen en dragen suggesties aan voor verdere stappen om de politieke participatie en vertegenwoordiging van minderheden in de landen van Zuidoost-Europa gestalte te geven.

Synthèse

La participation et la représentation politique des minorités constituent un aspect important d'une société démocratique: elles garantissent que les intérêts des minorités soient reconnus et rencontrés le mieux possible, dans un environnement accueillant et ouvert, tout en encourageant la loyauté de ses minorités envers l'Etat. Dans leur souci de faire valoir leurs intérêts, les minorités sont souvent confrontées à la sous-représentation, voire la non-représentation, dans la vie publique, un phénomène fréquemment imputable à la règle de la majorité, inhérente à de nombreux systèmes politiques, et à la prédominance des intérêts de cette majorité. Contrairement à ce qu'on attend généralement d'Etats modernes, on peut considérer qu'ils ne sont pas complètement neutres concernant les problèmes linguistiques, religieux ou culturels.

Quel est le rôle des partis politiques en matière de participation des minorités en général? Quelles options ont réussi à façonner un paysage politique multiethnique? Les partis politiques ethniques attirent-ils essentiellement des électeurs minoritaires? Les dispositions électorales pour les minorités nationales (par ex. sièges parlementaires réservés à des MP minoritaires ou circonscriptions électorales spéciales pour les minorités) comportent-elles un risque d'intimidation et de discrimination? La représentation politique s'obtient-elle avant tout par le biais de partis minoritaires au niveau régional et local? Quel rôle remplissent les Etats dans la création et le maintien des partis politiques minoritaires? Ces questions et bien d'autres ont fait l'objet d'une conférence régionale intitulée 'Political participation of minorities in South-East Europe in the process towards EU integration' (La participation politique des minorités en Europe du Sud-Est dans le processus d'intégration européenne) qui s'est tenue à Skopje, Macédoine, les 10-11 mars 2008. Cette conférence, organisée par l'association Common Values dans le cadre du programme Minority Rights in Practice in South-East Europe de la Fondation Roi Baudouin, visait à approfondir la compréhension, à permettre l'échange d'expériences et de bonnes pratiques, à accroître la coopération et à renforcer la participation et la représentation politique des minorités dans les pays de l'Europe du Sud-Est.

A partir du matériel présenté à la conférence, Common Values a conçu cette publication comme un outil visant à promouvoir une compréhension commune du concept de participation politique proprement dit et comme un guide en vue de son application dans les communautés multiethniques.

Le premier chapitre est une introduction au processus complexe de la participation politique des minorités, qui constitue indubitablement un aspect important du vaste domaine des droits des minorités. Le chapitre 2 décrit le cadre international dans lequel s'inscrit la participation et représentation politique des minorités, à la fois au niveau universel et régional et au niveau légal et politique. Dans le prolongement du chapitre 2, le troisième chapitre aborde les normes internationales dans ce domaine et examine les prescriptions politiques et légales de l'UE relatives aux droits des minorités dans les pays des Balkans occidentaux. Le chapitre 4 s'étend sur le contexte historique et institutionnel ainsi que sur les prémices et les types de dialogue politique entre minorités et population majoritaire. Le chapitre 5 présente au travers d'une série d'études de cas les minorités et les partis politiques dans plusieurs pays d'Europe du Sud-Est. Ce chapitre analyse les engagements des Etats, leur législation, les pratiques et les politiques mises en œuvre pour

répondre au besoin d'une participation et d'une représentation politique appropriée des minorités à l'intérieur de leurs frontières. Chaque étude de pays souligne les dispositions, pratiques et politiques positives et met en lumière les problèmes existants ainsi que les enjeux pour le futur. Le problème de l'inclusion des minorités dans le processus décisionnel gouvernemental fait l'objet du chapitre 6, qui décrit les diverses formes de représentation politique, par le biais de MP, de coalitions gouvernantes, ou de modes distinctifs d'autonomie culturelle, chacune d'elles correspondant à un modèle typique lié à un pays particulier d'Europe du Sud-Est. Le chapitre 7 examine la question brûlante de la décentralisation, vue essentiellement au travers de l'expérience de la Macédoine et de la Serbie.

En conclusion, les recommandations s'inspirent de la comparaison entre les expériences régionales et suggèrent des démarches ultérieures en vue d'une participation et d'une représentation politique accrue des minorités dans les pays des Balkans occidentaux.

1. Minorities and political participation: introduction

The multi-ethnic character of the population in any particular state must be reflected in its institutions, policies and practices. The political participation of minorities is a prominent aspect of minority rights in international law and in the domestic legislation of most countries. At the same time, minority rights themselves do not sufficiently encompass the needs of minorities and of a diverse society in the field of political participation on a national and local level.

The participation of minorities in public life is essential to ensure that their particular concerns are taken into account and to enable them to influence the general direction of development of society, while participation in social and economic life enables them to take care of their needs through their own active contribution. Effective political participation is needed in the allocation both of opportunities and of benefits.

There is a wide range of mechanisms in South-East European states in connection with minority participation and representation, adjusted to the relevant situations in practice. These mechanisms vary from federalism, through territorial autonomy, proportional electoral systems and guaranteed minority seats in parliament and on advisory boards to various committees and commissions. Regardless of the fact that there can be no perfect model, positive examples across the region can be put forward which move the countries towards further democratization by means of more effective participation and representation, taking into consideration the ideals of democracy and fundamental human rights. A satisfactory outcome would be where established stable and democratic governments are viewed both by the majority and minorities as legitimate and as their own.

All the parties concerned must always be consulted when drafting legislation. Governments must share their concepts and ideas before drafting any particular law. They should take all interests into account during the decision-making process, including economic as well as political factors. Above all, they must consider the relevant provisions, policies and practices established, developed and elaborated in the context of the EU as part of their obligations under a specific aspect

of the political Copenhagen criteria and specific provisions embodied in the stabilization and association agreements. This is not an easy task, but it is the only way to ensure common understanding and mutual trust. Many consider that these problems would be easily overcome when the rest of the region accedes to the European Union. In the meantime, however, a great deal remains to be done.

It should be emphasised during times of radical reforms in states on their way to the EU accession process that while achieving consensus through dialogue among groups and their interests, the national interest must not be ignored. On the contrary, the achievement of national interests should reflect success in the integration of minorities in society.

Political participation involves incentives for the parties involved, especially minority representatives. During the last decade or so, EU membership has been a strong incentive for greater cooperation between groups. The building of stable democratic institutions in order to fulfil membership criteria is a triggering factor, but there is a risk that this incentive will lose its attractiveness when the region enters the EU. Economic aspects will probably remain the most important incentive.

Full and effective participation in political, cultural, economic and social life can be considered a 'third generation' minority right. Although effective participation has only recently become the focus of debate on minority rights, it is firmly rooted in the standards of international human rights law. In addition to being a general human right, effective participation is also a right of minorities as stipulated in the relevant international legal instruments. The link between

effective participation and other types of minority rights is obvious. If minorities are effectively represented in public affairs, discriminatory standards and practices can be more readily eliminated. If, on the other hand, persons belonging to national minorities are subjected to systematic discrimination, they manifestly cannot participate fully in any given society. Effective participation of minorities in various areas of public life is essential for the development of a truly democratic, cohesive, inclusive and just society. Effective participation of minorities in decision-making processes, and particularly in decisions which bear a special impact on them, is a fundamental precondition for the full and equal enjoyment of the human rights of persons belonging to minorities. Moreover, measures taken to ensure the effective participation of minorities contribute to the alleviation of tensions and thus serve the purpose of conflict prevention. Consequently, in addition to being a legal obligation, creating conditions for the effective participation of minorities should be considered by states as an integral part of the principles of good governance. The states of South-East Europe have implemented this legal obligation with varying degrees of success and in a variety of forms.





2. International standards

International standards on minorities and their effective political participation focus on the rights of minorities to have access to all forms of political decision-making at all existing levels without discrimination.

2.1. Organizations and conventions

2.1.1. The UN System¹

The right of everyone to take part in the conduct of public affairs, directly or through freely chosen representatives, as well as to vote and be elected at genuine periodic elections is prescribed in Article 25 of the International Covenant on Civil and Political Rights (ICCPR). This provision is an elaboration of Article 21 of the Universal Declaration on Human Rights (UDHR) which states that 'Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.' With regard to minority participation in particular, the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Linguistic or Religious Minorities (UNDM) states that 'persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life' (Article 2(2)) and the right to 'participate effectively in decisions on the national, and where appropriate, regional level concerning the minority to which they belong or the regions in which they live' (Article 2(3)). The Covenant is a legally binding instrument with the Human Rights Committee acting as a monitoring body and a mechanism for individual complaints. UN declarations, on the other hand, are resolutions adopted by the General Assembly of the United Nations and as such, in formal terms, are not legally binding. They do, however, possess moral and political force. With regard to the UDHR, moreover, a number of legal experts have proposed that it has been elevated to the status of customary international law. The same, of course, cannot be

said of the UNDM. Nevertheless, it is worth recalling that the UNDM was adopted by the General Assembly by consensus.



Links:

- *International Covenant on Civil and Political Rights (ICCPR):*

http://www.unhchr.ch/html/menu3/b/a_ccpr.htm

<http://www.austlii.edu.au/au/other/dfat/treaties/1980/23.html>

- *Human Rights Committee:*

<http://www.unhchr.ch/html/menu2/6/hrc.htm>

[http://www2.ohchr.org/english/bodies/hrc/Commission on Human Rights, Human Rights Resolution 2005/79, 21 April 2005, E-CN_4-RES-2005-79](http://www2.ohchr.org/english/bodies/hrc/Commission%20on%20Human%20Rights,%20Human%20Rights%20Resolution%202005/79,%2021%20April%202005,%20E-CN.4-RES-2005-79)

2.1.2. Council of Europe System

In the European context, Article 3 of Protocol 1 to the European Convention on Human Rights and Fundamental Freedoms (ECHR) creates an obligation for the state parties to hold free elections 'under conditions which will ensure the free expression of the people in the choice of legislature.' More specifically, the right of persons belonging to national minorities to participate effectively in cultural, social and economic life and in public affairs, in particular those affecting them, is protected by Article 15 of the Framework Convention for the Protection of National Minorities (FCNM). Under the European Convention, the European Court of Human Rights is an individual complaints mechanism, while the Advisory Committee is the monitoring body of the FCNM.

.....
¹ Hurst Hannum, 'The State of the Universal Declaration of Human Rights in National and International Law,' 25 Ga. J. Int'l & Comp. L. 287 (1996), at, pp. 317-351



Links:

- **European Convention on Human Rights and Fundamental Freedoms (ECHR):**
<http://conventions.coe.int/Treaty/en/Treaties/html/005.htm>
- **Protocol 1 of the ECHR:**
<http://www.humanrights.coe.int>
- **European Court of Human Rights:**
<http://www.echr.coe.int>
- **European Court of Human Rights cases collection:**
<http://cmiskp.echr.coe.int/tkp197/search.asp?skin%20=hudoc-en>
- **Convention-related documents:**
http://www.coe.int/t/e/human_rights/minorities/
- **Country reports:**
http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/Table_en.asp
- **Opinions of the Advisory Committee:**
http://www.coe.int/t/dghl/monitoring/minorities/2_Monitoring/ACFC_Intro_en.asp
<http://www.libertysecurity.org/auteur766.html>
<http://www.humanrights.coe.int/Minorities/eng/FrameworkConvention/AdvisoryCommittee/Opinions/Table.htm>
- **Minority Rights Group International:**
<http://www.minorityrights.org/?lid=911>

Provisions on participation contained in international instruments

- UDHR, Article 21

Everyone has the right to take part in the government of his country, directly or through freely chosen representatives

- ICCPR, Article 25

Every citizen shall have the right and the opportunity, without any distinctions mentioned in Article 2 and without unreasonable restrictions:

(a) to take part in the conduct of public

affairs, directly or through freely chosen representatives;

(b) to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

(c) to have access, on general terms of equality, to public service in his country.

- UNDM, Article 2

2. Persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life.

3. Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation.

- ECHR, Protocol 1, Article 3

The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the people in the choice of the legislature.

- FCNM, Article 15

The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.

- FCNM, Article 16

The Parties shall refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present framework Convention.

- OSCE Copenhagen document

Paragraph (7)

To ensure that the will of the people serves as the basis of the authority of government, the participating States will

(7.5) – respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination;

(7.6) – respect the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations

and provide such political parties and organizations with the necessary legal guarantees to enable them to compete with each other in a basis of equal treatment before the law and by the authorities.

Paragraph (35)

The participating States will respect the right of persons belonging to national minorities to effective participation in public affairs, including participation in the affairs relating to the protection and promotion of the identity of such minorities.

2.2. Substance of the right to effective participation

In its General Comment no. 25, the Human Rights Committee (HRC) interprets the conduct of public affairs broadly as the exercise of power in the legislative, executive and administrative branches. The HRC goes on to indicate that the provision covers all aspects of public administration, and the formulation and implementation of policy at international, national, regional and local levels. Furthermore, citizens may participate in the conduct of public affairs directly or indirectly, but once a mode of participation is established, no distinction should be made between citizens as regards their participation on grounds such as race,

colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and no unreasonable restrictions should be imposed.



Link:

HRC General Comment 25 on the right to participate in public affairs, voting rights and the right of equal access to public service, Art 25 (1996), UN doc. CCPR/C/21/Rec.1/Add.7, para. 5.

• [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/d0b7f023e8d6d9898025651e004bc0eb?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/d0b7f023e8d6d9898025651e004bc0eb?OpenDocument)

2.3. Article 15 of FCNM (key points)

Article 15 of the FCNM requires state parties to create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them. According to the FCNM Advisory Committee,

participation in public affairs entails participation in elected bodies, participation in consultation mechanisms, in public services and the judiciary, in specialized governmental bodies and in decentralized and local forms of government, along with participation through cultural

autonomy arrangements. Participation in economic and social life encompasses participation in development projects, access to employment, land and property, health care, social welfare and pensions, housing, etc. Participation in cultural life covers areas such as access to education and the

media and the protection of identity. Although the FCNM is silent on the issue of autonomy, various types of autonomy, including territorial autonomy, have come to be regarded as arrangements which facilitate effective participation and thus promote minority rights.

2.4. Right to participation in the context of human rights

2.4.1. Prohibition of discrimination

The right to effective participation in public life is to be enjoyed without discrimination. The basic principle of prohibition of discrimination is articulated in a number of instruments, ranging from Article 2 of the UDHR and Articles 3 and 4 of the UNDM to the principal legal instruments for the protection of human rights. All forms of racial discrimination are explicitly prohibited and equality in the enjoyment of political rights is guaranteed by Article 5 of the ICERD. Article 2 of the ICCPR secures respect for the rights recognized in the Covenant without distinction of any kind, such as race, colour, sex, language, political or other opinion, national or social origin, property, birth or other status. A general prohibition of discrimination is contained in Article 26 of the ICCPR. Moreover, Article 7 of the CEDAW creates the obligation on states to take all appropriate measures to eliminate discrimination against women in the political and public life of the country. In the European context, Article 14 of the ECHR guarantees the enjoyment of the rights and freedoms set forth in the Convention without discrimination on any grounds such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. Article 1 of Protocol 12 to the ECHR contains a general prohibition of discrimination on the same

grounds as Article 14 of the ECHR. Finally, equality before the law is guaranteed and any discrimination based on belonging to a national minority is prohibited by Article 4 of FCNM.

Provisions on the prohibition of discrimination in international instruments

- UDHR, Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

- ICERD, Article 5

In compliance with the fundamental obligations laid down in Article 2 of this Convention, State Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

(c) Political rights, in particular the right to participate in elections – to vote and to stand for election – on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service

- ICCPR, Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

- ICCPR, Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

- CEDAW, Article 7

State Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country, and, in particular, shall ensure to women, on equal terms with them, the right:

- (a) to vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;*
- (b) to participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government.*

- UNDM, Article 3

1. Persons belonging to minorities may exercise their rights, including those set forth in the present Declaration, individually as well as in community with other members of their group, without any discrimination.

- UNDM, Article 4

1. States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.

- ECHR, Article 14

The enjoyment of the rights and freedoms as set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

- ECHR, Protocol 12, Article 1

- 1. The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.*
- 2. No one shall be discriminated against by any public authority on any ground such as those mentioned in paragraph 1.*

- FCNM, Article 4

The Parties undertake to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority shall be prohibited.

- OSCE Copenhagen Document

(31) Persons belonging to national minorities have the right to exercise fully and effectively their human rights and fundamental freedoms without any discrimination and in full equality before the law.

2.5. Special measures

In order to ensure full equality, several legal instruments allow for the adoption of special measures. Article 1 of the ICERD permits the implementation of special measures ‘for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms’. The same approach is taken by Article 4 of FCNM which allows the states to ‘adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority.’ It has to be kept in mind that special measures do not constitute discrimination and therefore should not be considered as such.

Provisions on special measures in international instruments

- ICERD, Article 1.4

Special measures taken for the sole purpose of

securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.

- FCNM, Article 4

1) *The Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities.*

2) *The measures adopted in accordance with paragraph 2 shall not be considered to be an act of discrimination.*

2.6. Relations with other human rights

The right to participation cannot be effectively exercised without the adequate respect of other rights such as freedom of expression, freedom of assembly and freedom of association. A free press, the right to vote and the freedom to establish political parties, including those of minorities, must also be protected for the exercise of the right to participation to be meaningful. Effective participation, in turn, facilitates the successful

exercise of the right to education and the right to the preservation of one’s culture and identity.

2.7. Political participation in practice

2.7.1. Lund Recommendations

Various aspects of political participation in practice have been elaborated by treaty monitoring bodies such as the Human Rights Committee and the Advisory Committee of the Framework Convention. Moreover, a group of experts convened under the auspices of the OSCE High Commissioner on National Minorities developed the so-called Lund Recommendations on the Effective Participation of National Minorities in Public Life.

Political participation entails parliamentary representation on a national level as well as representation in regional and local assemblies. As stated in the Lund Recommendations, the essential aspect of participation is involvement, both as regards opportunities for minorities to contribute substantively to decision-making processes and for these contributions to have an actual effect. A variety of mechanisms are available to ensure such political participation. Examples include reserved seats for minorities in one or both chambers of Parliament. In some cases, minorities have the right to veto legislation which directly affects them. The challenge is to design an electoral system which reflects the diversity of society and thus ensures the respective representation of minority groups.

Minorities may face a number of obstacles to their participation in practice in political processes. General Comment 25 of the Human Rights Committee stresses that the state should take positive measures to overcome specific difficulties, such as illiteracy, language barriers, poverty or impediments to freedom of movement which prevent persons entitled to vote from exercising their rights effectively. Moreover, information and materials about voting should be available in minority languages.

Other elements which, if defined restrictively, may impede the political participation of minorities include requirements on residence, citizenship and language proficiency, among others. As the Human Rights Committee noted, residence requirements which apply to registration should be reasonable. In the context of South-East Europe, residence requirements should be formulated in such a way as not to hamper the participation of refugees and displaced persons in elections. Likewise, as the Advisory Committee to the Framework Convention notes in its Comments, citizenship requirements should not be applied more widely than necessary. While such requirements may be imposed for parliamentary elections, states are encouraged to provide resident non-citizens, who are often minorities, with the opportunity to vote and stand as candidates in local elections. This has been the practice of several European states. The Advisory Committee has held that language proficiency requirements for candidates for parliamentary and local elections are incompatible with Article 15 of FCNM, since they adversely affect the effective political participation of minorities.

As regards the choice of a particular electoral system, international law does not impose any specific solution. The Human Rights Committee has held that ‘the system must be compatible with the rights protected by Article 25 of ICCPR and must guarantee and give effect to the free expression of the will of the electors.’ The Committee has, moreover, stressed that ‘the principle of one person, one vote, must apply, and within the framework of each State’s electoral system, the vote of one elector should be equal to the vote of another.’ This principle has a direct bearing on claims sometimes put forward by some

minority groups that they should be entitled to double voting.

Nevertheless, it must be kept in mind that electoral districts should be delineated in such a way as not to distort the distribution of voters, not to have a discriminatory effect on a particular group or result in gerrymandering. Article 16 of the FCNM prohibits measures which alter the proportions of the population in areas inhabited by minorities and are aimed at restricting the rights and freedoms enshrined in the Convention. The Lund Recommendations assert that the geographic boundaries of electoral districts should facilitate the equitable representation of national minorities. This view is held by both the Human Rights Council and the Advisory Committee to FCNM. An additional obstacle to the political participation of minorities is the imposition of high numerical thresholds for parliamentary legislation. Indeed, the Lund Recommendations propose that ‘Lower numerical thresholds for representation in the legislature may enhance the inclusion of national minorities in governance.’

As some recent examples have shown, the political participation of minorities can be undermined by linking political participation with ethnic identity by requiring that candidates standing for election must be members of certain ethnic groups and that voters belonging to certain ethnic groups should be allowed to vote only for candidates from their respective groups. Such a system is inherently discriminatory and as such is illegal under anti-discrimination legislation and provisions in international law.

2.8. Conclusion

The right to effective participation of minorities is enshrined in international human rights law. The two main instruments which elaborate on this right are the International Covenant on Civil and Political Rights of the United Nations and the Framework Convention on the Protection of National Minorities of the Council of Europe. Both instruments, in addition to the European Convention on Human Rights and Fundamental Freedoms and its Protocol 12, stipulate that this right should be exercised without discrimination. These treaties have been widely ratified by Southeast European states.

Political participation is an integral component of effective participation as protected by Article 25 of the ICCPR and Article 15 of the FCNM. While these provisions do not lay down the specific form that effective political participation should take as regards electoral systems and processes and other types of consultation mechanisms, some general principles have nevertheless emerged. These refer to the requirement that the right to participation must be exercised without discrimination, that no undue restrictions are imposed on standing for election and voting and that the consultation mechanisms should be established in such a way as to allow for effective representation and participation.



Link:

• OSCE High Commissioner on National Minorities,
*Lund Recommendations on the Effective
Participation of National Minorities in Public Life*,
[http://www.osce.org/documents/cnm/1999/09/2698_](http://www.osce.org/documents/cnm/1999/09/2698_en.pdf)
[en.pdf](http://www.osce.org/documents/cnm/1999/09/2698_en.pdf)

3. European Union requirements

Since 1993, the European Union has used conditionality as a lever to influence the minority performance in public affairs of all states aspiring to EU membership.

In the early days the EU itself had limited legal powers in minority protection. Article F of the Maastricht Treaty reads:

1. 'The Union shall respect the national identities of its Member States, whose systems of government are founded on the principles of democracy.
2. The Union shall respect fundamental rights, as guaranteed by the European Convention for Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community Law'.



Links:

- <http://www.echr.coe.int/nr/rdonlyres/d5cc24a7-dc13-4318-b457-5c9014916d7a/0/englishanglais.pdf>

However, the set of accession criteria to be met by the Central and Eastern European states applying for EU membership were laid down in a political document produced by the Copenhagen European Council in June 1993. One aspect of the overall set of criteria is political (now commonly known as the Copenhagen political criteria) stipulates that in order to reach EU membership all candidate countries must have achieved:

'Stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities'.



Link:

- http://www.europarl.europa.eu/enlargement/ec/pdf/cop_en.pdf

These political criteria for accession were embodied in Article 6 (1) of the Amsterdam Treaty (1997), thus clearly obtaining a legal, even constitutional, nature.

Article 6(1) of Amsterdam Treaty reads as follows: 'The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States'.



Link:

- <http://europa.eu/scadplus/leg/en/lvb/a10000.htm>

The set of rather broadly defined criteria referred to above were later also enshrined in the key legal instruments of the Association Process (for Central and Eastern European States) and the Stabilization and Association Process (for Western Balkan States). The Association and Stabilization and Association Agreements were, and still are, a fundamental element of EU enlargement policy towards the respective regions. In other words, in the framework of these agreements, the general approach prescribed in the Copenhagen criteria is combined with a country-by-country approach which allows flexibility in tailoring conditionality to the specific situations in the respective countries. Putting aside the legal context of the complex minority rights issues in Western Balkans States, and examining EU policy towards this group of countries, one can witness the fact that the EU not only upholds the weakly formulated Copenhagen legal criterion of 'respect for and protection of minorities', but in addition it clearly and strictly applies a radically revised conditionality policy. In comparison with the first generation of conditionality (towards Central and Eastern European States), EU policy towards the Western Balkans States has become a finely-tuned second-generation form of conditionality. Neglecting all other aspects, the minority protection element has become much more outspoken while preserving

the flexible country-to-country approach. Special emphasis is given to a wide range of minority issues ranging from the return of refugees and internally displaced persons, the restitution of property and tenancy rights, through the full integration of minorities in public life and cultural, economic and social affairs on a state and local level, to the complete accomplishment of decentralization process(es).



Link:

• http://ec.europa.eu/enlargement/enlargement_process/accesion_process/how_does_a_country_join_the_eu/sap/history_en.htm

With regard to the political criteria, the EU clearly defines the goals, not the instruments, ways and means to achieve them, since it is impossible to define these in a unique way for each particular country. The European Commission scrutinizes the implementation of minority rights in the approach to the accession process on an annual basis by examining the Progress Reports. On the basis of the assessment of the Commission, the two councils decide whether a given state can enter the next/higher stage in the EU pre-accession process. Accordingly, the final decision of the Council of Ministers and European Council on granting candidate status and, no less importantly, for starting the membership negotiation process is based on the assessment of the Commission, taking into account the minority rights situation and the factual position of the minority communities, among other factors. Positive opinions of the European Commission on the membership applications of states are accompanied by Accession Partnerships/European Partnerships which list short- and medium-term priorities in all areas as essential preparation for

further EU integration. Generally speaking, some states (Slovenia, for example) did not have any significant problems in meeting the political criteria, while others, (Slovakia and Bulgaria) had to fulfil a number of priorities in the minority rights area enumerated in the Accession Partnerships.



Link:

• http://ec.europa.eu/enlargement/archives/key_documents/reports_2000_en.htm

The priorities under the political criteria in the European Partnerships of the Stabilization and Association Countries are even further developed than in the Accession Partnerships. In addition to the issues addressed in the Central and Eastern European Countries (public administration, the judicial system, combating corruption, human rights and minority rights in general), minority rights are elaborated in more detail and the recommendations are far more specific, based on the respective constitutional arrangements of each country. For instance, the 2006 European Partnership for Croatia requires implementation of the Law on Minority Rights both as a short- and a medium-term priority through 'improvement of minority rights, in particular ensuring that equitable representation of minorities in local and regional self-government units is achieved as well as in the state administration and judicial bodies and in the bodies of public administration'.

For Macedonia, the 2006 Partnership requires 'equitable representation of minorities as a medium-term strategy'.

In this way, the accession process directly contributes to the enhancement of effective minority representation in the country, both in the legislature and in state administration.



Link:

- http://eurlex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=304D0648
- http://www.europa-eu-un.org/articles/en/article_8280_en.htm

4. Minorities and political dialogue

Since 1989, the political participation of minorities in South-East Europe has taken many distinct forms, from ad-hoc modalities of political dialogue through more or less institutionalized modes of dialogue to various forms of government participation

4.1. Premises for political dialogue

It is in the primary interest of minorities to enter into or maintain dialogue with the government and state institutions of their country and with the

majority population. The premises for conducting political dialogue vary depending on a series of factors, which will be discussed below.

4.2. Historical background

The historical background influences all other factors. It makes a considerable difference if relations between the majority population and one specific minority group have been traditionally good or marked by conflict. It would probably be possible to argue in favour of a scale defining the historical background of inter-ethnic relations between the two poles mentioned above, though such an exercise would be outside the scope of this paper. An educated guess would probably put most situations in the centre of the scale, with a tendency towards the negative end.

This does not mean that historical situations can be transposed directly into the present day. Take for example the frequently cited example of South Tyrol, now in Italy. A wide range of means were deployed to secure control over this once poor and marginal province, involving military action, freedom fighters/terrorists, etc. Today, however, as part of the Alto Adige Euro-Region, South Tyrol is one of the most flourishing parts of Italy following

a settlement and a statute of autonomy, which defused the conflict.

Another example is Bulgaria, where the Turkish minority has faced various attempts at forced assimilation. The latest was in the 1980s, and resulted in mass emigration of the ethnic Turkish population. Today, while nobody denies that problems still persist, the Turkish-dominated political party holds the balance of power on the political scene and the re-immigration of ethnic Turks, bringing experience and expertise into underdeveloped areas, is gaining momentum.

In both cases, the transition has been difficult and marked by both collective and individual memories of past events. But the turning points came in one case through a political settlement, which took until 1992 to be genuinely implemented, and in the other case through the disappearance of a repressive regime and the recognition by the Bulgarian political elite of the political and economic weight of the Turkish minority.

4.3. Institutional background

The next factor in the logical chain described here is the institutional background in which majority and minority or minorities face each other. The nature of the dialogue, if it exists at all, is certainly different in a highly centralised autocratic state or

a dictatorship than it would be in a decentralized democratic one. Again, many intermediate shades between these two opposing models are possible and exist in reality.

Romania is a case in point, following the fall of the

old regime. It was a highly centralised state in which minorities enjoyed certain rights inherited from the Stalinist and post-Stalinist period. These rights were not negotiated; they did not result from dialogue, but were granted by the state in order to secure more effective control and rule over the minorities. While decentralization is still a taboo in Romania and the dialogue is not flawless, it is certainly taking place in a democratic background, although it began with violent clashes, instigating absurd fears of a possible civil war.

Another example is Macedonia. The transition from a centralised national state to a decentralized multi-ethnic one is currently taking place. The re-orientation and new arrangements in the state have opened a multitude of opportunities for dialogue. In this specific case it remains to be seen whether the majority and the minorities will show the necessary understanding to make wise and fruitful use of these arrangements.

But the formal arrangements in the state are not the only important question. The existence or non-existence of institutions which specifically address inter-ethnic issues is a significant matter.

4.4. Critical mass

Although minority rights apply to every individual who considers him- or herself a member of a particular minority, the political reality is that size does matter. Larger minorities will always find it easier to argue in their own favour simply because their political weight is greater. For example, there are valid reasons to grant access to state-sponsored education in children's mother tongues only when a critical number of pupils can benefit from it.

While large minorities have no problem in achieving

The efficiency of Serbia's minority councils is controversial, but the very fact that they have been established at all is a step forward and opens possibilities. In this case it also remains to be seen whether they will be used wisely.

Beyond the institutions, the existence of mechanisms ensuring not only adequate and equitable representation, but also participation of minorities, can make a critical difference to dialogue. In Macedonia, for instance, legislation impacting on minorities has to be passed with a double or qualified majority in parliament – one being the 'normal' parliamentary majority, the second being a majority among parliamentarians belonging to minorities. This has considerably enhanced the political role and weight of minorities and has certainly enhanced dialogue, with tangible results.

This point should also include the establishment of good practices. Regular retreats of senior politicians of majority and minority parties – whether mediated, like in the case of post-conflict Macedonia, or not – offer a forum for truly open dialogue.

a critical mass, it is often necessary for smaller minorities to form coalitions of interests. Depending on the issue or the specific interests, these coalitions are formed either with majority groups (e.g. political parties), or will take the form of a forum or platform of smaller minorities in order to try to increase their political impact. There are several examples of both variations, and a thorough analysis of each is needed. Both have functioned in specific situations and have failed in others.

4.5. Functioning elite

Entire population groups can obviously not talk to each other as a whole and dialogue must always be conducted through their representatives. In order to be able to conduct dialogue either with the majority or with other minority representatives, a minority needs to have functional and functioning elites. This implies a high level of specific skills ensuring the capacity to represent the interests of the group and to conduct a results-oriented dialogue.

One group that has suffered from the lack of such an elite is the Vlachs in the Balkans. Although this group is commonly stereotyped as having wealth and good networks, it has so far proved impossible to establish a functional elite, regardless of the fact

that most political parties of Vlachs include highly educated individuals. The lack of political skills among members of Vlach parties is among the factors undermining their political success.

Another example is the Roma group. The long-standing social and economic marginalisation of this group has brought about a large number of questionable representatives. Lately, however, an elite has begun to emerge among the various Romany groups in Europe which possesses the necessary skills and its impact is already tangible. It is thus essential for minorities themselves to invest in the education of their members on all levels in order to reach a situation in which qualified representatives achieve relevant results.

4.6. Assets

Last but not least, the assets a minority has to offer as bargaining chips have a very direct impact on the readiness of the majority to engage in dialogue and on the probability of a positive outcome. It is not hard to imagine that a minority living in an economically promising area will find more open doors than one living in underdeveloped areas.

These assets are not always of a material nature. The issue can involve marketing strategies and communication. Finding the right arguments and the right language to turn a dialogue into a win-win situation is something that can be done by any minority, and every group has something to offer which can be attractive to the majority.

4.7. Dialogue situation

Just as the premises define the framework in which dialogue takes place, the various forms of dialogue situations have a major impact on the readiness of the partners to engage and on the techniques to be used. At risk of over-simplifying the issue, three basic dialogue situations can be identified.

In the first situation, a large majority imposes its

point of view and the minority or minorities are numerically too small or too weak to respond in a relevant way. This situation is not rare in the Balkans and often these minorities seek to internationalise their problem as a last resort. A successful example of this is when the Vlach community involved the Council of Europe, which

drafted a resolution on their culture and language. This success has still not been transposed onto the national level(s).

The second situation arises when the majority and minorities engage as more or less equal partners. This is usually the case when the minority is either numerically or economically and financially strong to a degree at which unequal treatment would be to the political and/or economic detriment of the majority. One could argue that Romanians and Hungarians have nearly reached this level of communication in Romania.

The third and last situation on this scale is defined by the minority driving the agenda, forcing the

majority to react. This situation is defined by the threat of imminent crisis or by the actual implementation of this threat. Such a crisis-driven dialogue rarely yields positive and sustainable results. In the Balkans, Albanian minority groups have applied this approach in its most radical form, first in Kosovo, then in Macedonia and Southern Serbia. The results differ considerably in their quality and sustainability.



Link:

• <http://assembly.coe.int/Mainf.asp?link=/Documents/WorkingDocs/Doc08/eDOC11528.htm>

4.8. Conclusion

Having defined the premises for dialogue and the situation, one final category remains to be described. In order to characterise the entire syntagma of a political dialogue between minorities and the majority, two types of dialogue can be identified.

Spontaneous or ad-hoc dialogue occurs whenever the situation calls for it. There is no regularity and no sequence behind it. The results are mostly short-lived. While sometimes necessary, this is certainly not a tool for developing long-term strategies or approaches.

A second type is institutionalised dialogue, which takes place as part of political processes. It is conducted in institutions such as parliaments or outside state institutions, but with clear regularity, agendas and aims. This type of dialogue is the most suitable for the development of sustainable relationships between majority and minorities, but it does not preclude the occurrence of ad-hoc events.

Both of these types of dialogue can take place directly between the two or more parties or it can

be mediated. The dialogue can take place on the initiative of the majority or minorities or it can be encouraged, fostered or imposed by international intervention.

Combining the positive elements of the above should bring any society a few steps further on the path of what international agencies call 'democratisation'. But any democracy is only as good as the people who have the opportunity to express their will and make use of it. When dealing with political and institutional dialogue on a national level, we should bear in mind that real communication between citizens and state institutions takes place on a local level. Participative democracy can only be reached on a local level. Although legislation and its implementation on a national and, where applicable, a sub-national level are well under way in most countries in the region, the local level needs much more attention than it has received so far.

5. Minorities and political parties – regional practice

A variety of rules and legislation regulate political parties of minorities. Some countries ban them, others are ill-disposed towards such political organizations, while in other cases these parties have reserved seats in the national Parliament or are an essential part of government coalitions.

5.1. Introduction

Across South-East Europe (SEE), or at least in the countries overviewed here, there are both differences and common ground with regard to political parties representing minorities. Experience and best practices, however, are seldom shared. The similarities are few but fundamental. Firstly, every country has political parties representing minorities and for them, ethno-political mobilization is the main agent of organization. Such parties provide for the political participation of minority groups, but tend to be

mono-ethnic, attracting support only from the one ethnic group they represent. In general, they are a stronger factor in local politics than in national politics, due to their voter base. They often have representatives in the national Parliament and some participate in governing coalitions on a national level. The influence exerted by parties representing minorities on the policy process is dependent on the importance of the party in the country. This is where the differences arise across South-Eastern Europe.

5.2. Albania

In the absence of recent census data, the last being from 1989, minorities in Albania are estimated to comprise 2-4% of the total population (INSTAT 2008). However, Albania officially defines minorities as 'national minorities that have a kin state and characteristics such as national identity, language, customs, tradition, religion etc'. Other minorities are also recognized as non-linguistic minorities, including Roma and Aromanians/Vlachs.

Legislative provisions in Albania allow for political organizations on the basis of ethnic groups. However the small size of the ethnic minority groups accounts for their lack of political organization and promotion of the minority agenda is, either through their own or through mainstream political parties. The Greek minority in Albania is the most numerous compared to other minorities and as a result its political participation is more effective than that of the other minorities. The Human Rights Union Party (HRUP) represents the ethnic Greeks in Albania, gaining seats in local

council elections and in the national Parliament, but also participating in the Government coalition after the 2001 parliamentary elections.

Minority representatives have also been elected in local elections, and indeed the main level playing field for the political participation of minorities is in the localities where the ethnic groups live. The ethnic Macedonian minority group is also numerous and has developed political organization. In recent years several ethnic Macedonians NGOs have united to form a political party called the Macedonian Alliance for European Integration. So far they have run and gained seats in local elections, but like the HRUP, they are perceived as a mono-ethnic political party mainly interested in the needs of the Macedonian ethnic community.

The relative rise of political parties representing ethnic minorities will influence the political and party system of Albania. Long-term participation in political institutions will advance the minority rights protection system, thus making minorities

more visible and opening possibilities for their participation in public and political life. In the mid-term at least, such processes are likely to be more prevalent on a local level where the minority groups are more concentrated among the population. Currently, due to the outdated statistics which underestimate the size of minorities in the country, the mainstream

political parties do not have strong incentives to attract members of minority groups or to develop programmes and policies to address minority issues.



Links:

- <http://www.europeanforum.net/country/albania>
- http://www.ipu.org/parline-e/reports/arc/2001_01.htm

5.3. Bulgaria

Article 11, paragraph 4 of the Constitution of Bulgaria prohibits the formation of political parties on an ethnic basis. De jure political parties representing only one particular ethnic group are prohibited, but they exist de facto. Some such Roma parties are active on a local level; only one de facto minority party is active in political life on a national level, runs candidates in elections and participates in local and central Government.

Despite the de facto existence of ethnic parties, the constitutional ban has a detrimental effect. As these parties have no legally recognized status as ethnic parties, they are not in a position to make use of certain minority provisions in some international documents. Since the prohibition restricts the right to assembly of citizens belonging to minorities because of their ethnic origins, it is unquestionably discriminative. A number of attempts by civil sector organizations to repeal this ban have been unsuccessful.

A National Council for Ethnic and Demographic issues was established in 1997 to coordinate cooperation between the Government and NGOs representing minorities and to provide advice to the government on minority issues and policies. The Council includes representatives from

various civil sector organizations, most of which represent different ethnic groups living in the country (with the exception of groups of which the state refuses to recognise ethnic minority status, such as the Macedonian and Bulgarian-speaking Muslim/Pomak communities), along with representatives of the deputy ministers of all ministries. On a local level, there are Regional Councils for Cooperation on Ethnic and Demographic Issues for cooperation between national and local officials and NGOs representing ethnic minority groups. Since the establishment of the National Council and its regional structures, they have proved ineffective in influencing government policies on minorities, due to the very limited powers inherent in its statutes and its insufficient administrative capacity, which has been a cause for dissatisfaction in the European Commission throughout Bulgaria's EU accession process.

The mainstream political parties in Bulgaria have very little interest in minority issues, only making overtures to minority communities in pre-election periods, and some are even hostile toward minorities (notably some right-wing parties). While some radical political parties such as Ataka have developed anti-minority rhetoric

and programmes, others include candidates of different ethnic backgrounds in their electoral lists as window dressing to try to increase their voter support across the ethnic spectrum in Bulgaria. Unfortunately the minority candidates are almost always given electorally unviable positions in the lists.

The best-known political party representing minority groups in Bulgaria is the Movement for Rights and Freedoms (MRF), which represents the Turkish community and some other Muslim ethnic groups. The MRF is defined as a liberal-democratic party, but most of its electorate comes from areas predominantly populated with Turkish and Muslim communities. So far the MRF has been a junior coalition partner in three Governments on a national level and has numerous Mayors and local council seats across the country. The success of the MRF has increasingly drawn voter support in consecutive electoral cycles. Several political parties representing Roma have run in local,

Parliamentary and European elections. Their success has been limited due to the fragmentation of their electorate, their poor organizational structure and the division of votes among the different parties. They have won seats in local elections in municipalities inhabited by minorities. Despite the fact that in practice political parties representing ethnic minorities exist in contravention of Constitutional provisions, the formation of a political party representing the ethnic Macedonian community in Bulgaria has been denied. Even though the European Court of Human Rights has demanded that the court authorities in Bulgaria register the party, the registration of the political party is still pending.



Links:

- *Article 11, paragraph 4 of the Constitution of Bulgaria*

http://www.servat.unibe.ch/icl/bu00000_.html

<http://www.unhcr.org/refworld/docid/4954ce1523.html>

5.4. Croatia

The recognition of minority parties is not an issue of concern in Croatia, and they have the opportunity to act, exercise their rights and participate in the public and political life of the country on an equal footing with non-minority political parties. The programmes of most parliamentary non-minority parties address particular minority issues to a varying extent and in various contexts.

Two minority political parties are represented in the Croatian parliament: the Party of Democratic Action of Croatia (Stranka demokratske akcije Hrvatske – SDAH) and the Independent

Democratic Serbian Party (Samostalna demokratska srpska stranka – SDSS).

SDAH supports the realization of the political, social, economic, cultural and national rights of Bosniac people in Croatia. More specifically, the goals of the SDAH include the realization and institutionalization of all rights of the Bosniac minority in Croatia, participation in political life in Croatia and in the legislative and executive authorities as the only political party of Bosniacs in Croatia, fostering the best possible relations with the kin state of Bosnia and Herzegovina (B&H) and with Bosniacs in B&H and democratic

Croatia and its relations with B&H based on an equal footing.

The SDSS is the strongest and the most influential political party of the Serb minority community in Croatia. Its programme states that the party was established in full awareness of its role in preserving and shaping Serb national identity and in the participation of Serbs in political and public life in Croatia.

The Constitutional Law on the Rights of National Minorities guarantees the representation of national minorities in representative bodies on national and local levels and in administrative and judicial bodies and the participation of persons belonging to minorities in public life and the management of local affairs through councils and representatives of national minorities.

According to the provisions of the Constitutional Law on the Rights of National Minorities, national minorities are entitled to elect eight minority members of the Croatian Parliament in a separate "minority" electoral unit in separate minority electoral lists. The Serb national minority is entitled to nominate candidates and to elect 3 ethnic Serb MPs; the Hungarian and Italian communities are entitled to elect 1 MP each; the Czech and Slovakian community elect 1 common MP to represent both minorities; persons belonging to the Austrian, Bulgarian, German, Polish, Roma, Romanian, Ruthenian, Russian, Turkish, Ukrainian, Vlach and Jewish minorities elect 1 common representative in the national parliament, as do persons belonging to the Albanian, Bosniac, Montenegrin, Macedonian and Slovene minorities. Minority candidates may be nominated by political parties (not exclusively minority parties), national minority associations and at least 100 voters who are members of a particular national minority. Only persons

belonging to minorities whose national minority identity is indicated in the official electoral list may exercise their right to vote for candidates nominated in separate minority lists of candidates. Although this system guarantees the representation of minorities in the Croatian parliament, some issues of concern may be raised in regard to the representation of certain minorities and specific minority interests in this body. For example, it is debatable whether common representatives of several minority communities can effectively ensure that the voices of each of the communities are heard in the parliament.

Persons belonging to national minorities enjoy the right to representation in local government authorities (municipality and city level) and in representative bodies of regional government units (county level) depending on the proportion of the total population belonging to the respective minority in the territory covered by the authority's jurisdiction.

The effectiveness of representation of minority interests in the representative bodies on national and local levels remains an issue of concern. For example, minority representatives elected from the non-minority party list may feel more accountable to a political party than to the minority to which they belong. In some cases, persistent political divisions and divergent interests within a minority group raise the question of whether elected minority representatives can be considered representatives of an entire community. Minority policies adopted on a national level are not necessarily reflected in practice at local levels, although policy makers on both levels may belong to the same political force.

Although guaranteed the right to proportional representation, minorities remain highly under-represented in state administration, the judiciary

and the police. Some progress has been achieved by the adoption of various legislative amendments and by the development of minority recruitment strategies. However, securing full implementation of legal provisions with regard to adequate minority representation in the aforementioned state institutions depends, inter alia, on the adoption of long-term and comprehensive recruitment strategies, on raising the awareness of the general public on related minority rights and on the development of an effective monitoring system.

The participation of minorities in public life in Croatia is guaranteed by the establishment of the Council for National Minorities whose members are nominated by local or regional councils of national minorities, by minority associations and other organizations of minorities, religious communities, legal entities and citizens belonging to national minorities and representatives of national minorities in the Croatian Parliament.

The Constitutional Law on the Rights of National Minorities also stipulates the possibility of constituting councils of national minorities or to elect individual representatives of national minorities on a local and regional level. Councils of national minorities are non-profit legal entities with a consultative status to local and regional

authorities. They cannot therefore be considered as an institution of minority self-governance. Members of the councils and individual representatives of national minorities are elected from amongst candidates nominated by minority associations or by a number of persons belonging to a national minority as stipulated by the Law. Thus, neither non-minority nor minority political parties are given a legal opportunity to nominate candidates at elections for the councils and individual representatives of national minorities. Financial constraints, a lack of adequate human and technical resources to perform their work and in some cases non-recognition of their consultative status remain key obstacles to effective and high-quality work on the part of the councils and representatives of national minorities. With regard to the scope of their responsibilities in improving, preserving and protecting the position of national minorities on a local level, some councils tend to rely on political agreements concluded at various levels than on legal mechanisms.



Link:

• http://www.vsrh.hr/CustomPages/Static/HRV/Files/Legislation_Constitutional-Law-on-the-Rights-NM.pdf

5.5. Macedonia

Various political parties in Macedonia have been formed to represent specific ethnic communities in the country. Some scholars in Macedonia have written of the existence of 'ethnic parties', while others have defined them as 'parties of nationalities'. However, in their behaviour and political strategy to attract voters, all political

parties in Macedonia have used ethno-nationalism to attract voters. In-depth analysis of voter behaviour in Macedonia, carried out over several electoral cycles, shows that primary voter mobilization is based on the ethnic identity of the voter.

In a sense all political parties in Macedonia are

ethnic parties, at least on a primary level. Ethnic identity is a key feature of the party system, being embedded in the identity of the party, and ethnic identity is used for gearing voter support. On the next level, parties try to identify themselves on an ideological basis or on the basis of their stand on various issues. There is a correlation between the size of the ethnic communities represented by the parties and their development on an ideological and issue level. Parties representing larger communities have a larger electoral base including voters interested not only in the ethnic identity and needs of their own community. This applies to parties representing and addressing ethnic Macedonians and ethnic Albanians. Parties representing smaller communities have a smaller electoral base and a stronger ethnic identity. They consequently have less incentive or opportunities to develop their ideological profile. This applies to parties representing and addressing Serbs, Roma, Turks and others. The leaders of some of these parties acknowledge that the ethnic community agenda is limited, since at some point the specific needs of the community will be fulfilled or will not create a strong platform for party identity and party activities. However they do not see any need for change in the near future.

Parties representing ethnic Macedonians do not address the needs and issues of minority groups living in Macedonia in their programmes or statutes. They treat the values of equality and non-discrimination in a superficial and declaratory manner, but do not have any policies or undertake any action to meet the interests of minority groups. On a practical level, very few minority community members are members of political parties representing ethnic Macedonians, especially among the party leadership. Parties representing minorities mainly count on the

support of the ethnic group they represent. Their approach during elections reflects this tendency. Their electoral platforms articulate the needs of the ethnic community and their campaign materials are mainly in the mother tongue of the respective minority. Parties representing smaller ethnic communities have used their participation in Government to meet the demands of their ethnic group. During the 2002-2006 multi-ethnic coalition Government, the coalition included party representing Serbs and one representing Roma. These parties held the positions of deputy Minister of Transport and Communication and deputy Minister of Labour and Social Policy respectively. The leaders of these parties confirm that these posts were important in enabling them to meet some of the demands of the minority groups they were representing.

Albanian parties have been most successful in using their participation in Government to meet the demands of their ethnic constituency. Staying shy of heading powerful ministries (Ministries of the Interior, Defence or Foreign Affairs) these parties have led the portfolios for Local Government and Education, which enacted some of the crucial reforms put forward in the Ohrid Framework Agreement.

It is interesting to note that parties representing ethnic minorities contemplate participation in coalitions with other parties mostly in the framework of Parliamentary elections, while in local elections they sometimes prefer to stand alone. In both cases this is a strategic decision. However, this behaviour suggests that the parties do not treat the response of their ethnic electorate as a priority when deciding on whether to participate in coalitions. If they did, they would not differentiate between the type of elections, since their electorate remains the same throughout

the different cycles. Persons voting for parties representing Serbs, Roma, Turks or Albanians are likely to vote for them in both local and parliamentary elections. It appears that political parties of ethnic minorities behave like any other political party, being primarily interested in the power sharing model. In the run-up to Parliamentary elections, pre-election coalitions increase a party's chances of entering Parliament and indeed the Government in the case of an election victory. While in local elections they form coalitions where it is expedient to do so, these coalitions are not necessarily the same as the ones formed for Parliamentary elections. In the last cycle of local elections, ethnic minority parties gained positions of Mayor and local council seats in municipalities where their ethnic constituency lives. In their understanding, their relations with central Government depend whether they are part of the coalition forming the Government.

Multi-ethnic coalitions are a key feature of inter-party cooperation. However they are not stable on all levels and have several limitations. Firstly they are not formed on the basis of a common coalition platform, but on informal agreement on the

division of the spoils after the elections in the event of victory. Secondly they are not always applicable in the same format on a national and local level due to differences in the political configuration at the local level. Thirdly, if the multi-ethnic coalition does not form the Government, the cooperation and lineage between the parties tends to be weak. This is most visible in Parliament, where the voting patterns of pre-election coalition partners are sometimes very different. Nevertheless, multi-ethnic coalitions have ensured long-standing practices of minority inclusion in the system and after the changes brought about by implementation of the Ohrid Framework Agreement they remain an essential element in the management of inter-ethnic issues. While most elements and models for an integrative approach can be found in the system of state institutions, the political parties themselves remain generally mono-ethnic, with party coalitions contributing to multi-ethnic integration.



Links:

- <http://www.stat.gov.mk>
- <http://www.sobranie.mk>

5.6. Montenegro

Since 1997 the number of parties standing for different ethnic groups has increased in size and scope and their visibility and influence have improved. Various ethnic groups (Albanian, Bosnian, Croat, etc.) have formed political parties on the basis of ethno-political mobilization and are participating in the work of the local and national Government. Due to the 'late start' of ethnic parties, (although they were not previously forbidden) the prior integration of minority

representatives in the mainstream parties and the recent historic experience as Montenegro gained independence, the political participation of ethnic minorities is secured through various parties.

As from 1998, electoral law in Montenegro provides for a separate electoral unit in areas where the Albanian population forms a majority. This electoral unit delivers 5 seats in the national Parliament and as the majority of the voters are ethnic Albanians, the elected candidates have the

same ethnic background. However, not all come from parties representing ethnic Albanians. The mainstream political parties also run their own ethnic Albanian candidates (notably the Social Democratic Party) to win a seat in this election unit. The Social Democratic Party (SDP) has a strong position in party political life, having formed practically all national Governments in Montenegro after the introduction of democracy and political pluralism in the country. Being a prominent and popular political party, it has over the years attracted members of various ethnic groups, of which some have run in elections and others have had significant positions in the party. Other mainstream political parties such as the Liberal Alliance have also followed this pattern of behaviour towards minorities. However, although the mainstream political parties have members from different ethnic groups and run them as candidates, their programmes, platforms and policies do not reflect the same enthusiasm for minority issues.

Faced with intra-ethnic political rivalry, but also competition from mainstream political parties, ethnic minority parties often opt to enter pre-election coalitions with the mainstream political parties. The outcome is that these parties get a more or less secure seat in the national Parliament, and possibly a place in the national Government if the pre-election coalition wins a majority of seats

to form the Government.

Multi-ethnic party coalitions are also formed on a local level. They are sometimes the same as on a national level, while in other cases they are dependent on the socio-demographic configuration in the respective municipality. The coalitions represent a model to secure participation and access to power sharing rather than an instrument to influence the agenda and policies in terms of advancing minority rights or responding to minority needs.

Over the years, mainstream political parties in Montenegro have been able to attract members of various ethnic groups and to attract voters from their communities. However, this has been achieved by running candidates from different ethnic groups, rather than through minority policy based initiatives. Such a practice has inflated the growth of political parties representing ethnic minorities. While these smaller political parties do not have the weight to exert a strong impact on the agenda and policies on a local or national level, they participate actively in political life, either as stand-alone actors or as part of broader coalitions.



Links:

- <http://www.yihr.org/uploads/publications/bhs/16.pdf>
- <http://www.lawinitiative.com/Legal%20Aid/strane/Dokumenti/Fajlovi/Propisi/Zakon%20o%20manjinskim%20pravima%20i%20slobodama.doc>

5.7. Romania

Minorities in Romania can be divided into three categories, mainly taking the size of the minority group into consideration: 1) Hungarians, the most numerous and politically well organized; 2) Roma, the second most numerous with several political organizations to represent them; and 3) 18 other

minority groups with at least one political organization per group.

It is specific to Romania that NGOs representing minority groups can also take part in elections and run candidates for office. The extensive possibilities available to represent one's ethnic community have

created a fragmented party system across the ethnic spectrum. This means that all ethnic groups have at least one political party standing for their representation, and several parties in the case of the bigger groups. The large number of ethnic parties competing for the votes of their own ethnic communities, mostly on a mono-ethnic programme or election platform, has created a public perception that organizations representing minorities are responsible for the needs and demands of the minority groups. The mainstream parties have very few minority issues on their agenda, both on a national or local level. On the other hand, minority organizations remain largely silent on more general issues such as economic measures, social reforms etc., which transcend the ethnic dimension.

The Romanian Constitution guarantees one seat in the lower house of Parliament for each minority group whose candidates cannot gather enough votes to enter the Parliament in accordance with the electoral system (Article 59). Through this clause, in the 2004-2008 Parliament 18 minority groups had representatives in Parliament. With the exception of the Democratic Alliance of the Hungarians in Romania (DAHR), which was able to gain enough votes to win seats in Parliament, the other organizations representing minorities have benefited from this provision. However, the requirements for standing for election as an organization representing a specific minority are demanding and complex, thus creating a lack of political competition within the ethnic communities and preventing some organizations from running in the elections.

The DAHR party has been a junior coalition partner in several Governments in Romania from the mid 1990s. The participation of a party representing a minority group in Government has

been to the benefit of various ethnic groups. DAHR participation assisted in the advancement of minority rights, in interaction with public administration and in education, and also in terms of decentralization and other minority issues. The other minorities with guaranteed seats in Parliament form a 'Group of National Minorities in the Chamber'. This Group has become a stronghold of support for Government proposals and policies rather than an advocacy group for the advancement of minority rights and issues. In addition to the intra-Parliamentary Group, ethnic minorities also take part in the work of the Council of National Minorities. The Council administers financial support for the minorities, but lacks other policy-relevant activities.

Romanian legislation creates ample space for the participation of ethnic minorities in political life. However, the strong ethnic differentiation and multiple organizations representing different minorities diminish the influence of minority participation. While intra-ethnic competition is weak, inter-ethnic rivalry plays to the benefit of political parties representing the majority. The smaller ethnic minorities are included in policy processes mainly through mono-ethnic parties, but they have a limited influence on the policy agenda of the mainstream political parties.



Links:

- <http://www.dri.gov.ro/index.html?lng=2>
- <http://www.cdep.ro/pls/dic/site.page?id=116>

5.8. Conclusion

There is a correlation between provisions enabling minority participation, the number of political parties representing minorities and the competition between them. Where organization on an ethno-political basis is allowed and access to power is more or less guaranteed (e.g. through reserved seats in Parliament or multi-ethnic coalitions) the political space for minority participation is fragmented and competition is more intense. The illusory promise of power inflates the number of rigid mono-ethnic political parties representing a particular community. This process of fragmentation does not bring benefits to the minorities or the parties representing them. In coalitions with mainstream parties, they are divided and do not have enough political weight to influence the policy process. The term ‘mainstream parties’ is used here to distinguish and label parties that address and have support from the majority population in the country in question. Across SEE these parties show little if any interest in minority issues and have limited practices of integrating minority members or securing minority participation in political life.

6. Minorities and government decision making

The political representation of minorities can take many forms. Beyond cultural autonomy and representation in parliament, minority parties can also be part of governing coalitions. Much attention focuses on parliamentary representation, since it can be secured through legislation and it is a prerequisite for government inclusion. However, minority representation in parliament does not automatically translate into the ability to influence policy making.

6.1. Participation of minorities government is not specifically required by minority rights law

Minority representatives in parliament have often been marginalized. As a result, they often serve as window dressing, rather than being effective policy makers. In parallel with the inclusion of minorities in Parliament, there has also been a trend towards minority inclusion in government. After the waning of ethno-nationalist mobilization across Eastern Europe in the mid 1990s, many minority parties joined governments and by the late 1990s they became key coalition partners in most countries of the Balkans. The participation of minorities in government is not specifically required by any legal minority rights provisions, but the Lund Recommendations of the High Commission on National Minorities outline the benefits of including minorities in government:

Lund Recommendation regarding government participation reads:

‘[states] should ensure that opportunities exist for minorities to have an effective voice at the level of the central government, including through special arrangements as necessary. These may include, depending upon the circumstances: ... formal or informal understandings for allocating to members of national minorities cabinet positions...’

Including minority parties in government is difficult to regulate or require by law. While this can be achieved as part of power-sharing arrangement, as is the case in Bosnia and Herzegovina and at least formally in Kosovo, such a far-reaching guarantee for minorities can be unacceptable and too extensive for the majority. In addition, guaranteed representation in government raises three distinct problems. Firstly, at the level of government formation after elections, tension between the principle of majority rule and minority inclusion is particularly pronounced. If, as is often the case, only one relevant minority party exists, does a requirement for representation grant a particular minority party permanent representation in government? Secondly, the inclusion of minority representation by law in practice undermines the principle of equality and requires specific justification on why such a measure is required. Thirdly, the inclusion of minority parties requires the recognition of ethnicity as an organizing principle in the political system which might conflict with other aspects of the self-identification of the state.

6.2. Minority participation in governments in Central and South-Eastern Europe

Throughout South-Eastern Europe, legal requirements for including minorities in government are the exception. Nevertheless, minority parties have been included in governments in all countries of the region at various times over the past 17 years. This means

that considerations other than requirement by law have been decisive. In all countries of the region with large minorities, the parties of these minorities have been included in government for at least one legislative period since the 1990s. In many cases they entered government in broad

opposition coalitions against semi-authoritarian and nationalist incumbents (Romania, Slovakia), but in a number of cases (Bulgaria, Romania), the

minority parties have demonstrated their ability to form coalitions with parties across the political spectrum.

Table: Minority participation in governments in Central and South-Eastern Europe (as of 2008)²

Country	Years	Minority (Party)	Form of Minority Party Inclusion (see below)
Albania	2001-2005	Greek (Union for Human Rights Party)	4
Bulgaria	1992-1994	Turkish (Movement for Rights and Freedoms)	1
	2001-		4
Croatia	2003-2007	Serb (Independent Democratic Serb Party)	1
	2007-		4
Macedonia	1990-1992	Albanian (Party for Democratic Prosperity,	1
	1992-	1992-1998, 2007-; Democratic Party of Albanians, 1998-2002, 2006-; Democratic Union for Integration, 2002-2006)	4
Montenegro	1998-	Albanian (Democratic Alliance of Montenegro, Democratic Union of Albanians)	1
Romania	1996-2000	Hungarian (Democratic Union of Hungarians in	3
	2000-2004	Romania)	1
	2004-		4
Serbia	2000-2004	Hungarian (Alliance of Vojvodina Hungarians), Bosniacs (Sandžak Democratic Party) Bosniacs (Sandžak Democratic Party)	3
	2007-		2

.....
² This list only includes minority parties which entered parliament independently (except Serbia, where minority parties were part of a broad democratic coalition) rather than as junior partners to majority party lists.

**Links:**

- http://www.osce.org/documents/hcnm/1999/09/2698_en.pdf
- http://en.wikipedia.org/wiki/Greek_communities_in_Albania#Organizations
- www.masterparlament.it/public/File/elezioni%20Albania.doc
- http://www.nationmaster.com/graph/gov_pol_par_and_lea-government-political-parties-and-leaders
- <http://countrystudies.us/bulgaria/52.htm>
- <http://www.britannica.com/EBchecked/topic/395212/Movement-for-Rights-and-Freedoms>
- <http://flagspot.net/flags/hr-sdss.html>
- <http://www.b-info.com/places/Macedonia/republic/partiesPDP.shtml>
- <http://www.crwflags.com/fotw/flags/mk%7Dpdsh.html>
- http://www.seenews.com/politics/parties/mk_dui/
- <http://www.aimpress.ch/dyn/trae/archive/data/199610/61015-001-trae-pod.htm>
- <http://www.electionguide.org/election.php?ID=948>
- http://en.wikipedia.org/wiki/Democratic_Union_of_Albanians
- http://www.seenews.com/politics/parties/ro_udmr/
- <http://www.crwflags.com/fotw/flags/cs%7Dszdp.html>
- http://www.migrationeducation.org/fileadmin/uploads/Bosniak_final_version_01.pdf

6.3. Forms of inclusion of minority parties in government

On the basis of regional experience, we can distinguish between four forms of minority party inclusion in government:

1. The first form is the inclusion of minority parties in government without such parties formally joining the governing coalition, either obtaining limited representation in government or at lower levels of the executive. Examples include the support which the Independent Democratic Serb Party (SDSS) offered the minority HDZ government in Croatia between 2003 and 2007 and Montenegrin governments since 1998, which have been supported by Albanian minority parties.
2. The second form of minority inclusion is based on the inclusion of minority parties on the lists of majority political parties which subsequently form governments. As a result,

the minority parties only enjoy limited independence in the process of formation of the government. For smaller minority parties in particular, this has been the only way not to enter parliament and to join the government. These include Slovak and Bosniak minority parties in Serbia after 2004 and Roma and Turkish Parties in Macedonia. Generally, this form of minority party inclusion does not result in high-level government representation.

3. A third form of government inclusion of minorities is as part of a broad pre- or post-election coalition. Here minority parties have a more significant role in government formation. Such a form of government inclusion has occurred in 1996 in Romania and in Serbia after 2000. Minority parties are not the only or even most important coalition partner, but part of a large grouping of often

heterogeneous democratic parties. These coalitions have often been crucial in ending a phase of semi-authoritarianism, but the minority parties can be marginalized in the larger coalition building process.

4. Finally, the most explicit form of minority inclusion is the participation of a minority party in a post-election coalition, where it is a fully equal partner in the government.

In addition to these forms of minority party inclusion, minority individuals participate in government not only through minority parties, but also through participation in mainstream

parties. Generally speaking, few majority/mainstream parties in the region have substantial minority representation and this form of minority inclusion in government is rare. However, members of the Muslim/Bosniac community in Montenegro have achieved substantial representation in government through the governing Democratic Party of Socialists (DPS) and in particular the Social Democratic Party (SDP). In general, these coalitions emerged for three key reasons: EU conditionality, shifting values in the domestic political system and the polarization of majority parties.

6.4. EU conditionality

In its conditionality for the accession of new member states, the EU requires both democratic governance and respect of minority rights. However, the political representation of minorities, especially in government, does not form part of explicit membership requirements. The regular EU progress reports, for example, have not systematically commented on the inclusion of minority parties in government. Nevertheless, EU influence has been crucial in the formation of minority-inclusive governments. Firstly, progress in the field of minority rights has often been linked to the inclusion of minority parties in government, such that fulfilment of the admittedly vague minority rights criteria for EU membership was de facto linked to minority participation. Secondly, the participation of minority parties in government has been viewed domestically and by the EU as an indicator of successful democratic governance and minority rights implementation.

In the absence of a coherent EU minority rights policy, consensual politics between majority and minorities have become a key measure of minority rights protection.



Links:

- <http://www.developmentandtransition.net/index.cfm?module=ActiveWeb&page=WebPage&DocumentID=601>
- http://www.ecmi.de/jemie/download/Focus1-2003_Hughes_Sasse.pdf
- <http://www.eumap.org/topics/minority>
- http://www.eumap.org/topics/minority/reports/minority01-02/minority02/methodology/2002_00_minority_cs_method.doc
- <http://www.eumap.org/topics/minority/reports/minority01-02>

6.5. Shifting values in the domestic political system

Domestically, the inclusion of minority parties has reflected a shift in the character of the political system. In countries with significant minorities, one of the main political divisions in the early years of democratization ran between ethnic groups. Polarization along ethnic lines often contributed to the consolidation of semi-democratic regimes, such as those of Vladimír Mečiar in Slovakia, Ion Iliescu in Romania and Franjo Tuđman in Croatia. Minority parties, although permitted by law, were denied legitimacy, as they were described by the state and semi-democratic elites as parties opposed to the status quo. A pattern in countries with substantial minorities has been the emergence of ethnic semi-democracies, where minorities are *de jure* or *de facto* not treated on equal terms with the majority

and suffer legal and political discrimination. This might go hand in hand with an otherwise democratic system of government, as in Latvia or Estonia, or emerge in combination with less democratic practices, as in Croatia or Slovakia. As political divisions shifted towards issues of economic and political reform and EU accession, the minority-majority division lost some of its significance. Consequently, minority parties became legitimate potential partners, and as noted above, even symbols of a country's desire to join the European Union. Thus the incorporation of minority parties is a form of consolidation of the democratic system of government.

6.6. Polarization of majority parties

The inclusion of minority parties in government has been a consequence of highly polarized political divisions. In a number of post-Communist countries a deeply divided party system developed between either the left-leaning Communist successor parties or a nationalist populist party and a more conservative coalition or party. Amid such polarization, minority parties often became a crucial coalition partner. Thus, the predominantly Turkish Movement for Rights and Freedoms has been a key ally for majority parties in Bulgaria, even though it did not formally enter government until 2001. The relatively small size of minority parties also made them more attractive than larger mainstream parties which would demand a larger share of government positions. It

might also be argued that the minority focus of minority parties make for less competition over government resources than mainstream parties with broader interests.

6.7. Positive impact of minority party inclusion in government

The positive impact on the status of minorities through the inclusion of minority parties in government is often assumed, rather than understood. Not only do the forms of minority inclusion vary, but the impact exerted by minority parties has varied greatly. The inclusion of minority parties in government may signify an improvement in majority-minority relations, but cannot be considered as being exclusively positive. Disappointment on the part of members of the minority in connection with the inclusion of their party in government or tensions between majority and minority governing parties can have negative repercussions. The ineffectiveness of Albanian parties in Macedonia to deliver tangible improvements to their constituencies despite a decade of government participation was a key precondition for the violence which erupted in 2001.

In most cases, however, changes in the field of minority rights protection have been significant after minority parties joined governments, even if the policy agenda of minority parties generally faced serious resistance from majority parties. As a comparative study of minority party participation in governments in Romania, Macedonia and Slovakia suggests, the most significant shift has been recognition of the legitimacy of minority parties and minority political demands. Through government participation, it became apparent to the state majority that minority parties no longer constitute a threat to the titular nation. As a result, minority party inclusion in government is both a consequence and a facilitator of a shift away from ethno-nationalist divisions in post-Communist societies. When examining the impact of minority

party participation in government, we can thus consider three fields:

1. *Changing attitudes towards minorities on the part of the general public and the elite*
2. *Advances in the field of minority rights legislation and policy making*
3. *Including minorities in broader decision making processes and increasing the degree of co-ownership which minority communities hold in the state*

Assessing the success or failure of minority participation has to account for these different aspects, rather than just focusing on the adoption of legislation. It is outside the scope of this paper to make a comprehensive analysis of the successes and failures of minority participation in regional governments, but can only take a cursory glance at the regional experience.

On the level of changing social attitudes and symbolizing a breakthrough for minorities, the first time minority parties were included in government marked a significant step for the status of minorities in the post-communist societies in the Balkans. Thus the role of the Independent Serb Democratic Party in support of the conservative Croat Democratic Community (HDZ) in 2003, the Hungarian DAHR joining the Romanian government in 1996 or the Alliance of Vojvodina Hungarians (SVM) entering the Serbian governing coalition in 2000/1 marked watersheds from the previous state of political marginalization. Interestingly, in most cases, the transition from a minority party attacked and marginalized by the governing parties and media in a semi-democratic environment to inclusion in government was rapid, as in the three aforementioned cases. In

some cases the inclusion of minority parties by moderate or reformist parties, such as in Romania (1996-2000) or Bulgaria (2001-2005), Macedonia (1992-1998) improved the status of minority parties and enabled them (or other minority parties) to work in coalitions with parties previously hostile to minority parties. The degree to which the political participation of minority parties in public life has become normal and widely acceptable might be the single most significant contribution arising from the widespread pattern of minority party participation in government. However, such a trend only has temporary significance, as once minority parties and minority concerns are accepted, the need arises for more tangible advances in the minority agenda.

In terms of advances in the field of minority rights, the success of minority parties in government has often been piecemeal and gradual. The most important demands of minority parties, such as minority language universities in Romania and Macedonia, remain unfulfilled. Similarly the participation of minority parties in government in Montenegro and Romania has not resulted in comprehensive minority laws. In Serbia, a minority law was passed at the Yugoslav level in 2001. This was undoubtedly a success of the minority parties in government, in particular of the Minister for

National and Ethnic Communities Rasim Ljajić of the Sandžak Democratic Party and the Alliance of Vojvodina Hungarians. However, the law was never fully implemented and the majority parties lacked the political will to draft follow-up legislation. Consequently the legislative and policy successes of minority parties have often been limited to areas which are less symbolically significant or far-reaching.

The participation of minority parties in the broader policy making process is often constrained by the allocation of less significant ministries to minority parties. Across the region, if minority parties are not allocated minority-specific institutions or ministries, they often hold ministries with little access to resources or policy making capacity (such as youth, social affairs or health). In fact, coalitions with minority parties have at times been established because they appear to come at a lower political cost than coalitions with majority/mainstream parties. In addition, the success of participation in broader policy processes depends on the commitment of the minority parties to larger policy objectives. Thus, the Hungarian party in Romania strongly supported NATO and EU integration and thus had a non-minority specific policy agenda, whereas the Albanian parties in Macedonia during the 1990s lacked a broader perspective.

6.8. Conclusion

The impact of minority participation in governments across the Balkans is hard to quantify. Minority inclusion has been an aspect of the liberalization of ethnic politics in the region and has come in combination with EU and NATO integration. It is therefore difficult to determine

the particular contribution of minority participation on its own. In fact the failure of a decade of Albanian party participation in Macedonia to prevent the violence in 2001 might suggest that the inclusion of minority parties in government can lead to failure if not embedded in

a larger reform process. Such a reform process provides for policy goals which extend beyond specific minority vs. majority goals and bridge the divide between communities. Furthermore, the positive association of minority participation with European integration can only develop a positive dynamic if such a relationship is realistic.

7. Minorities and decentralization - the case of Macedonia and Serbia

The greater proximity of citizens to government institutions presumably leads to the greater fulfilment of democratic ideals. Accordingly, local government units carry potential for truly democratic governance with increased opportunities for citizen participation in the political process.

7.1. Ethnic politics and territorial aspects of decentralization

The assumption about democratic enhancement through decentralization is generally accepted without critical consideration. However, the link between ethnic politics and decentralization has not been explored systematically in any particular social science discipline. Ethnicity, minority rights, self-determination and similar concepts have been studied at great length, but the perspective is limited to the analysis of political systems and arrangements like federalization, territorial self-governance, political autonomy, etc. Local self-government in a unitary state and the influence of ethno-political practices are largely neglected. Experts in the field warn about the territorial dimension of authority and power that is often overlooked by advocates of decentralization. They are not opposed to the drive towards decentralization and devolution, but simply offer a more nuanced view of the rather simplistic picture promoted by the largely unchallenged belief in the potential of decentralization. Only true democratization can benefit all citizens regardless of their ethnic affiliation and ethno-nationalistic politics in Macedonia undermine democratic prospects.

Decentralization, as used here, is a political term encompassing the devolution of powers from a central to a local level. This can be achieved either through a system of local self-government units or federalization of the state and/or the creation of more limited territorial or cultural autonomy. In our case, decentralization is limited to the reform of local government and stops short of any form of territorial division of Macedonia. The simple two-level form of central and local self-government best suits the integrative needs of the country and

guarantees its unity after the ethnically motivated military conflict of 2001. Any regional sub-division is suspected of intentional federalization, which could later be followed by secession of Albanian-populated parts of the country. These fears are given some credence by the fragility of the territorial political map of the Balkans, the uncertainty of political borders in Albanian-populated areas in the region and the recent problematic independence of Kosovo.

The central question in the country is how to pursue more profound local government reform, to prevent federalization, suspected of leading to secession, and to guarantee the cohesion of the state. The conflict in 2001 threatened the unity of the country along ethnic lines. Furthermore, the recent decentralization reforms are among the key conditions of the Ohrid Agreement which ended the military action. The redefinition of the territorial boundaries of local self-government units in 2005 met with strong opposition from the Macedonian majority. The new territorial make-up of the municipalities presumably grants greater control to Albanians at the expense of Macedonians. This territorial aspect is potentially dangerous, especially if we consider the relentless drive towards the creation of parallel and segregated institutions which allegedly redress the unfair ethnic stratification of Macedonian society. For the majority population, any territorial aspect of devolution is understood as a radical and hostile proposition that threatens the territorial unity of the state. Currently, however, federalization or secession is not prominent in public debate and accordingly it is appropriate to focus on decentralization as a

process of devolution of powers and responsibilities from the central to the local level

and to look at another set of problems that burden these developments.

7.2. The development of devolution in Macedonia

Macedonia has an interesting and revealing history in terms of the development of local government. The most important period is the half century of 'self-governing socialism', which was the Yugoslav contribution to the experimental socialist political order. This self-governing socialism granted great privileges to municipalities and entrusted them with high levels of independence. However, the main and most important aspects of political control remained with the party and were highly centralized. Macedonia shared the political system with other parts of the former Yugoslavia for less than a century, but took a more specific direction after the country gained independence. Ethnic politics dictated most of the political decisions and are very well illustrated by the shape and nature of changes in the sphere of local government.

The processes of stepping out of Yugoslavia and shifting to a pluralist political system coincided in Macedonia. This most important historical development was accompanied by the rise of ethno-nationalism. Both Macedonian and Albanian citizens flocked to their representative ethnic parties. While everything, including property rights, was redefined in the first years of independence, local government was stripped of its autonomy and put under direct central control. The central government delayed local government reforms and gained almost total control over state affairs until 1996. This was presumably a preventive measure to secure the territorial integrity of Macedonia. This period of centralization was crucial for the recent

development of local government in Macedonia and for the forthcoming establishment of the decentralized political system.

The last big socialist reforms in 1974 gave extensive autonomy to local government units. In Macedonia there were 34 units of local government units plus the City of Skopje. Municipalities covered more extensive territories and larger populations and were economically much stronger and independent than they are today. Political control of every social pore was in the hands of the ruling Communists and in the hands of Macedonians. While this ethnic dominance cannot be justified, it can be explained by two simple facts. Firstly, demographic shifts favoured Albanians, who were not as numerous throughout the socialist period as they are at present. Secondly, the Albanian population was mostly rural and marginalised, with limited access to channels of social mobility. Local self-government units were developed around local urban centres where Macedonians were in a majority. The political dominance of Macedonians and the ensuing ethnic stratification were clearly visible in the distribution of political powers on a local level even in municipalities with a huge Albanian presence. It should also be remembered that the turbulent events in Kosovo provoked distrust towards Macedonian Albanians.

The number of local government units remained intact until the first real reform in this field in 1995. However, dramatic centralization took place during this period to secure territorial

integrity during the initial period of Macedonia's independence, which faced many challenges. The new Local self-government Act, adopted as late as 1995, was accompanied by changes in the size and number of municipalities in a radical change of territorial organization into 123 units, plus the City of Skopje. This can be best described as territorial fragmentation, perhaps to prevent the local units from growing in power and prominence as municipalities were remembered to be during the period of

socialism. This was not a real step towards decentralization, due to decreased powers, increased financial dependence on central government and functions and structures in proportion to the decreased size of the local self-government units. This fragmentation and financial dependence aimed to ensure that central government would maintain control and the central role.

7.3. The effects of party politicisation and ethnic mobilisation on decentralization

The latest reforms after the conflict in 2001 were also accompanied by territorial rearrangement. The number of units was decreased by merging them. Some forty municipalities were melted into larger ones and shifted local political powers into other administrative centres. From an ethnic perspective, Macedonians reacted to the territorial rearrangement which in many places granted control to Albanians for the first time. The demographic changes contributed greatly to this new political reality. These were reflected in the geographical distribution of ethnic groups, especially Albanians who populate certain areas of the country in greater concentrations. It is necessary to examine the issue over time to better understand the legacy of the previous system and the difficulties of a transition additionally burdened by ethnic politics. The socialist regime and power monopolized in a single party guaranteed the status quo for Macedonians. The collapse of the one-party political system also entailed a change in this regard. Ethnic parties mushroomed and singular ethnic political

dominance was gone for good. It is very instructive to follow the transformation of the one-party mono-ethnic political system.

The introduction of party pluralism brought many advantages, but was insufficient for complete democratic development. Especially in the case of Macedonia, little progress has been made in getting away from the old habits of single-party governance and the monopolization of power by the ruling party. This condition was further aggravated by the fact that the reformed communists in the form of the Social Democratic Union of Macedonia (SDUM) ruled without interruption until 1998, when the Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity (IMRO-DPMNU) took power for the first time. The strong drive towards party politicisation became apparent after the two major parties changed positions twice. In 2002 the SDUM came back to power, and in 2006 the IMRO-DPMNU was back in power. Each electoral victory was accompanied by massive changes in the managerial

layers of public administration extending beyond state institutions with changes of managers and responsible persons in any position, from schools, hospitals, public enterprises, media and various sports federations to board members, etc. The same intensity of personnel changes is demonstrated by the Albanian parties when ascending or descending from government. The tendency towards representation of a given minority by a particular party takes precedence over the rule of representation in proportion to the relative size of the minority community. This emphasises the phenomenon of party politicisation, or absolute rule by a single party. This 'winner takes all' principle is damaging to democratic development in Macedonia in every regard, including the decentralization process. The decentralization process was already problematic as a highly politicized process. It was presented as the most important part of the reforms following the Ohrid Agreement, when the

accompanying territorial reorganization of the local self-government units further aggravated the feelings of the majority population. Most notable is the territorial arrangement of the Struga municipality on the shores of the Ohrid Lake. The addition of many rural areas populated mostly by Albanians shifted the voters' powers to this ethnic group and put Struga under their political control. Another example is the territory of the City of Skopje, which was expanded to the Kosovo border and now includes many rural areas. This was done in order to reach the threshold of over 20 percent of inhabitants in a given municipality in order to secure the right to the official use of their language. Skopje as a capital city should have simply guaranteed the exercise of this right without enlarging the city limits to encompass a greater numbers of Albanians. Today, after almost 3 years, it is becoming apparent that this urban-rural conglomerate faces too many diverse challenges and is proving almost impossible to manage.

7.4. The political struggle for positions – and nothing else

Most appointments to managing positions in the city administration are secured through party negotiations. Employment procedures on every level are twisted in order to fulfil party membership needs. Even when the equitable representation of minorities in proportion to the relative size of their communities in the overall population is set to be achieved, the influential parties use all of their negotiation skills, and indeed blackmailing techniques, in order to secure positions for their members and voters. One can only imagine how policies are created and implemented in such a colourful environment. If we add party interference in the local council, the complications multiply.

Every local institution is permeated by party installations and the greatest interest is to secure as many managing positions as possible in order to secure further posts for party members. This applies universally, from the local administration, managers of schools and members of school boards, to managers of public enterprises and members of their managing boards. In order to reach a single decision, one has to take into account the general manager and his or her links with the important parties, which party has control of the managerial board and how all these factors relate to the party groups represented in the council. All these levels have to be further harmonized with the

parliamentary parties, the distribution of political parties on a national level and the control of particular ministries, state agencies and other institutions.

From trivial to crucial, every single issue is dependent on judgment based on party perspectives. Under these circumstances minority representatives are no longer champions of the minority cause, but participate in power struggles to secure more seats and positions of influence or simply to provide employment for their party members and voters. Ethnicity is turned into just another instrument for the advancement of personal interests and the parties become just another mechanism to pursue these selfish interests. Macedonian and Albanian politicians readily form coalitions in order to maximize their efforts to come to power or to stay in power, easily overriding the ethnic barriers that are only useful for campaign purposes.

The decentralization process will suffer from slow and inefficient implementation, regardless of politicians' claims that the process is going in the right direction and at the optimum speed. Consumed with petty interests, they have no time to look ahead and to understand the meaning of real and meaningful decentralization. Currently, local government is understood to be just another arena for political struggles. The parties approach every office from the same perspective. This is the reason why Macedonia does not have a separate agenda for local elections and parliamentary elections and party symbols dominate all campaigns.

Once in power in the local units, personnel changes are given top priority in order to secure positions for those who earned them in the party. This general lack of democratic capacity to secure administrative continuity will impede normal democratic processes for a long time to come.

Macedonia

Decentralization is certainly beneficial for minorities in Macedonia, but our analysis should not stop here. In the case of Macedonia. There are two obstacles to the achievement of a truly decentralized system. Firstly, it must be made clear that no further territorial reorganization will take place and that there will be no pressure towards federalization. In other words, it is necessary to secure the stability of the system after the years of turbulence and transformation, to guarantee the unitary character of the state and to rule out any possibility of secession. Secondly, the party politicisation of the administration and other state, locally and centrally controlled institutions must be brought to an end. Parties must release their grip on hospitals, theatres, schools, etc. These simple conditions must be met in order to achieve further and successful decentralization that will ensure improved participation of minorities in political life. In Macedonia everyone has become accustomed to the idea of ethnic power-sharing but we must move on towards adoption and implementation of real democratic values. Local government has an immense role to play in this process.

Serbia

In Serbia, during the year 2000 the Coalition of Hungarians from Vojvodina once again confirmed its status as a parliamentary party, with one of its members securing the post of vice president of the Government. An even more significant result was achieved in the framework of the DOS during the elections for the Assembly of the Autonomous Province of Vojvodina, when this party became the second in power in the Regional Executive Assembly in terms of the mandates gained. The political rise of this minority party was crowned by

its renewed affirmation and accession to power in all local government units where Hungarians constitute an absolute or relative majority among the population.

In examining the characteristics of current legislative regulation allowing the participation of minority communities in local decision making processes, there are two important reasons for taking a retrospective view. Firstly, in the past seven years Serbia has made considerable progress in introducing adequate precepts and evident results have been achieved. However, what has been achieved is certainly not enough and there is still scope for criticism. Secondly, the idea of the autonomy of the Hungarian minority, minority self government and effective participation of national minorities in the decision making processes, which arose as a result of public opinion among the Hungarian community, are well incorporated in the principles regulating minority rights and minority protection issues.

What progress has Serbia made in reality?

The basic principles in advocacy for the rights of national minorities are based on the new Constitution of Serbia. Apart from the constitutionally guaranteed rights of all citizens, additional individual and collective rights are also guaranteed by special regulation of a general character. Unlike some other multi ethnic-countries in Central and Eastern Europe, in Serbia the false dilemma of whether collective minority rights exist or whether the special rights are related only to individuals was avoided during the discourse on the protection of the minorities. This dilemma was solved with the Constitution and previously with the Minorities Act, along with the regulation that stipulates that members of national

minorities participate in decision making processes directly or through their representatives, or that they themselves can make decisions in certain areas connected with their culture, education, information and official use of the language and writing, in accordance with the law.

The most important factor in connection with the participation of national minorities in the decision making processes on a local level is the more specific stipulation that representatives of minority groups have the right to participate in the administration of public affairs and to enter into and act in public posts under the same conditions as other citizens. Regardless of the fact that this stipulation is not sufficient by itself to provide an adequate level of minority rights protection, the situation does not appear so hopeless if it is viewed in the context of the constitutional stipulation for affirmative action.

In connection with positive discrimination, there is a regulation which states that special enactments and temporary measures which Serbia might introduce in economical, social, cultural and political life to achieve full equality for representatives of national minorities and citizens from the majority cannot be considered as discriminatory if they aim to eradicate particularly unfavourable living conditions which affect them. As will become evident later, some measures based on the principle of affirmative action are incorporated in the Serbian juridical system.

An additional important fact is that a Constitutional provision establishes a foundation for cultural autonomy of minorities. With the law that allows the establishment of minority based self-government, members of national minorities can elect their own national councils in order to practice their right to self-government in the areas of culture, education, information and the official use of their language and script.

Moreover, the previously adopted Minorities Act establishes important elements for minority participation in decision making processes on a local level. This law stipulates that when deciding on issues related to the official use of a national minority language, culture, education and information on the minority language, state institutions, territorial autonomies and local self-government units should seek the opinion of the National Councils for the National Minorities. A significant development related to the topic of this presentation is the judicial system of Serbia, which was introduced with the amendments to the Local Self-Government Act of 2004.

This item of legislation regulated that ethnically mixed municipalities must form councils on inter-ethnic relations. These councils must be comprised of representatives of all national and ethnic communities living in the respective municipality. According to this regulation, municipalities in which one ethnic community constitutes more than 5% of the total number of inhabitants or those where all minority communities living in the respective municipality constitute more than 10% of the population according to the last census of the population of Serbia, are considered as ethnically mixed municipalities. The communities that have more than 1% of participation in the total number of the inhabitants of the respective municipality can have representatives in the Council on inter-ethnic relations. The regulations concerning the powers of these councils reflect a degree of insecurity among the legislators in creating the new face of this new kind of local advisory body. The Council, as arranged by the law, considers issues of implementation, protection and improvement of ethnic equality in accordance with the law and its statutes, and then it informs the Municipal Assembly of its suggestions and

opinions. The Municipal Assembly is obliged to give its opinion on this in the course of its next meeting, but no later than 30 days after notification. On the other hand, the Municipal Assembly is obliged to provide the Council on Inter-Ethnic Relations with all suggestions and solutions concerning the rights of the ethnic communities.

The Council on Inter-Ethnic Relations has gained the right to instigate a motion at the Constitutional Court for evaluation of the constitutionality and legality of Municipal Council decisions if it finds that the rights of the ethnic communities represented in the council have been directly infringed.

The regulations governing the founding and activities of the Council on Inter-Ethnic Relations were established. The novelty here is that the Council is assigned to be an independent working body comprising representatives of the Serbian people as well as the representatives of national minorities. The procedures for nomination and selection of the members must ensure equal participation of representatives of the Serbian people and of national minorities, provided that neither Serbian nor any of the national minority groups constitute a majority of members in the council.

Important practical dilemmas were removed by new regulation, according to which representatives of national minorities on the local council are elected on the basis of nomination by the national council of the respective minority, if it has such a council. The regulation stipulating that the decisions of the Council for Inter-Ethnic Relations should require the consensus of the members of the council is also new.

With the new Local Government Act, the right of

national minorities to use their symbols and flags, which is regulated by the Minorities Act, was improved. Thus, while the Minorities Act allows this possibility only on state occasions and the celebrations of national minorities, the new Local Government Act establishes this important symbolic right in a manner unrestricted by date in all municipalities where the language of a national minority is in official use.

An additional contribution in affirming the expression of the will of minority communities on a local level is made by a provision of the new law by which changes in the names of streets, squares, neighbourhoods, villages and other inhabited areas must be regulated and the opinions of the National Council of National Minorities on these matters must be sought in cases where the language of the national minority is in official use in the area of the respective local self-government unit.

In other words, regardless of the fact that the National Council of National Minorities acts as a body of central, not local minority self-government, it formulates its opinions in consultation with local representatives of its minority group and community.

Nevertheless, there is still scope for criticism of the practices of minority rights implementation and minority participation in local decision making processes. There are inconsistencies in the election of members of the local Councils on Inter-Ethnic Relations. Initially, the local self government bodies neither had sufficient experience, nor sufficient guidance from the authorities concerning the selection of persons to participate in these bodies. The Council for National Minorities of Serbia issued a recommendation which suggested that local self-government units should nominate members of local councils from the ranks of the central minority self-government units. This

recommendation is most important in areas where local minority communities have insufficient political experience and organization. The suggestion was accepted by the majority of local self-government units in ethnically mixed municipalities in Vojvodina such as Apatin, Zrenjanin, Alibunar, but in some cases, the political parties represented in the local assemblies formed local councils from amongst their own members. This was the case in Subotica, where the Hungarian and Serbian parties, under pressure from their own coalition restraints, had insufficient strength to resist the political ambitions of the other parties to elect a local Council on Inter-Ethnic Relations that would be easier to control.

In general, the creation of these local councils represents an improvement in this area. However, one can not escape the impression that in the absence of clear rules of choice, and especially in the absence of clearly specified powers, these bodies remain in the domain of advisory bodies which exist in a vacuum. Additional problems may arise from the regulation requiring decisions based on consensus in these councils. Moreover, the relations of the minority members of these councils are not defined, both in cases when representatives of their own local community and members of the National Council of their own minority are concerned. Of course this should not prevent members of these councils from effectively representing the interests of their own community, provided that they are sufficiently inventive as individuals.

In conclusion, it should be stressed that Serbian legislation on the expression of the local and general interests of minority communities has significantly improved. Practical problems can be mainly attributed to the fact that the institutions involved are new and lack adequate previous social

and political experience in this area. The local and central authorities and the minority communities

themselves will have to invest considerable efforts to make this system functional and effective.

7.5. Conclusion

The decentralization process is highly praised by the largest international development agencies and organizations such as UNDP and the World Bank and it is equally acclaimed on a European level, as demonstrated in the European Charter of Local Self-Government, which sets the standards to be reached. There is another dimension to decentralization, not only as a democratic mechanism guaranteeing greater citizen participation and accountability and transparency on the part of administrators and politicians, but also as a convenient instrument to buffer ethnic tensions. However, the undeniable democratic potential of decentralization could be hampered by ethnic politics. The analysis of the implementation of decentralization in Macedonia should send warning signals about the threats to democratic consolidation resulting from pervasive ethno-political struggles.



Links:

- <http://unpan1.un.org/intradoc/groups/public/documents/UNTC/UNPAN019071.pdf>
- www.policy.hu/document/200808/beata.husza.pdf&letoltes=1
- <http://www.sigmaweb.org/dataoecd/49/23/36512718.pdf>
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- <http://www.iris-bg.org/files/Macedonia%20ecentralization%20Summary.pdf>
- <http://www.maxwell.syr.edu/moynihan/Programs/dev/Symposium%20Files/17th%20Symposium/Presentations/1708Breuss.pdf>

8. Conclusions :

the challenges of the
political representation
of minorities

By Florian Bieber

The political participation of minorities has become the litmus test for the degree of Europeanization in the countries of Southeastern Europe. While no formal requirement by any international organization or by international human or minority rights standard, the inclusion of minority parties in government is often seen as a measure of successful implementation of minority rights and toleration of the majority towards the minority. If a minority party is able to enter government, it can be viewed as succeeding at the top of the state—which must bode well for other parts of the state.

Parties representing minorities have been in government in all countries of the region and are and have been represented in all parliaments. Exclusion is no longer the primary risk for minorities at the aggregate level in the region. However, it would be premature to consider the issue of minority political participation ‘solved’. In fact, the experience of the political participation of minorities in Southeastern Europe over the past decade highlights as many challenges as it does successes:

First, voters continue to choose parties along ethnic lines in most, but not all countries, of Southeastern Europe. Parties appeal to a majority or a minority, but few parties have tried and succeeded in gaining a cross-ethnic reach. Thus, politics remain ethnified, even if in many countries political decisions might not always be. The fact that minority parties continue to be the main form of minority representation in public life reflects a weakness among majority parties, i.e. the inability or lack of willingness of parties of the majority to become parties which can appeal to all citizens rather than just to one group. Efforts to undermine ethnic politics have generally been flawed by only targeting minority ethnic parties and have largely failed. Parties divided along ethnic lines are not inherently problematic, but raise three dangers which are visible throughout the region. Ethnically based parties run the risk of transforming policy areas unrelated to identity and ethnicity into ethnic turf wars. Furthermore, minorities are often deprived of the same degree of political pluralism majorities can afford as their small size precludes multiple successful parties within the community. Consequently, one party often holds a quasi monopolistic position. Finally, minority parties have largely not been effective in setting the policy agenda and thus have only been of limited success in advancing the status of minorities.

Second, Roma and other smaller or more scattered minorities continue to be dramatically excluded from political representation and participation in most countries. While larger, well-organized minorities with kin state support have been able to generate political representation, Roma communities have often been unable to fully benefit from minority representation and remain woefully unrepresented in national, regional and local representative institutions. Considering the size of the Roma community, this gap is dramatic and results in policies in the region still often being designed for Roma, not by Roma.

Third, the political representation of minorities continues being understood in similar ways the inclusion of women into public life was thought of decades ago. Members of minority communities are largely delegated to represent minorities or work on minority issues, rather than also be able to work on unrelated policy fields. Thus, it is likely to find minorities in areas of ‘minority interest’ in government, whereas other domains remain majority policy domains. Until the state no longer has reserved implicit domains of the

majority (esp. defense or foreign affairs), the state will remain a state of the majority with privileges for minorities, but not full inclusion. This challenge is a reflection of the broader problem of the lack of mainstreaming of minority issues. Minority policies remain confined to minority rights in a narrow understanding, such as minority language, culture and education, rather than identifying the many ways in which minorities are impacted by other policies.

Fourth, minority representation in the region has taken on a high degree of complexity from sometimes multiple councils at the local level in Kosovo, Serbia and Macedonia, to special minority councils in Croatia, Montenegro, Serbia and Bosnia to multiple layers of institutions which are designed to include and secure minority representation. While such institutions constitute a major advance to the exclusive majoritarian policies in most countries in Southeastern Europe, there is a need to take stock and evaluate the effectiveness of these institutions. Driven often by external demands from international organizations and donors and not reflecting demands of the minority or fitting into decision making process, their formal appearance might be often more impressive than their performance (or even their potential). It would thus be wrong to assume that elaborate institutions, even if they do not exist on paper only, are a panacea to minority representation. Especially low turn-out in some elections (i.e. Croatia) or elaborate decision-making processes (i.e. Serbia) might render these institutions unrepresentative of the minorities they seek to speak for.

Fifth, representation at the top does not necessarily mean full and effective inclusion at all levels of government. In fact, the inclusion of minority parties in government or their representation in parliament can be an unhelpful 'shortcut' in order not to have to address more complex and difficult forms of inclusion in the state administration or structural, permanent inclusion at lower levels of government. Thus, minorities in government should be seen as the ultimate test for effective minority participation, but as merely one facet of many.

Sixth, European Integration has been the source for much of the transformation in the field of minority representation in the region. While some forms of minority inclusion are likely to have emerged without the EU, the degree and speed at which the transformation has taken place has been a success story for EU conditionality and Europeanization. However, often the process is limited to the form and less to the substance of representation. Furthermore, safeguards to achieved levels of minority inclusion are limited after the accession of a country to the EU, which can and has already lead to backsliding. Finally, questions remain how much minorities have truly benefitted by being made symbols of Europeanization in their country.

In conclusion, this guide suggests that there been a dramatic growth in standards, understanding and practice in regard to minority representation since the early 1990s. This guide thus remains an interim assessment of these regional trends. The challenges in the coming years is thus how to bring minorities into public life which lack the strong kin state support and high degree organization—how to make sure that Roma deputies in parliament in any country of the region are no longer unusual; how to have minorities

participate in shaping all policies of the state—having a Hungarian minister of defense in Romania or Serbia; and how to make political parties multiethnic—having minority and multiethnic policies in all party platforms as a normal aspect of any party programme. These and other topics will remain on the agenda and are likely to continue being key aspects of minorities rights in Southeastern Europe well until all of the countries of the region have joined the European Union.

The King Baudouin Foundation is an independent and pluralistic foundation whose aim is to serve society. Our objective is to make a lasting contribution to justice, democracy and respect for diversity. Each year, the Foundation provides financial support for some 2,000 organizations and individuals committed to building a better society. Our fields of activity for the coming years are poverty, democracy, heritage, philanthropy, health, leadership, local engagement, migration and development. The Foundation was created in 1976, to mark the 25th anniversary of King Baudouin's reign.

We operate with an annual budget of 48 million euros. As well as our own capital and the large donation we receive from the National Lottery, we manage Funds created by private individuals, associations and businesses. The King Baudouin Foundation also receives donations and bequests.

The King Baudouin Foundation's Board of Governors draws up broad lines of action and oversees the transparency of our management. Some 50 colleagues are responsible for implementing our actions. The Foundation operates out of Brussels, but we are active at Belgian, European and international level. In Belgium, we have projects at local, regional and federal level.

We combine various working methods to achieve our objectives. We support third-party projects, launch our own activities, provide a forum for debate and reflection, and foster philanthropy. The results of our projects are disseminated through a range of communication channels. The King Baudouin Foundation works with public services, associations, NGOs, research centres, businesses and other foundations. We have a strategic partnership with the European Policy Centre, a Brussels-based think tank.

Outside Belgium, the Foundation is particularly active in the Balkans in projects that promote EU integration, tackle human trafficking and defend minority rights. In Africa, we focus on projects involved in the fight against AIDS/HIV and in promoting local development. The King Baudouin Foundation is also a benchmark in international philanthropy thanks to, among others, the international Funds that we manage, the King Baudouin Foundation United States, and our role in the Transnational Giving Europe network.

You can find further information about our projects, events and publications on www.kbs-frb.be. An electronic e-mail is also available if you would like to keep up to date with our activities. Please address any questions you may have to us at info@kbs-frb.be or call us on +32 (0)70-233 728.

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For donors resident in Belgium, any gift of €30 or more transferred to our bank account 000-0000004-04 will qualify for tax deduction.



Common Values is a nongovernmental organization active since 2005 in the field of promotion and protection of the rights of ethnic communities that live in Macedonia, strengthening their mutual dialogue and cooperation.

The Ohrid Framework Agreement opened new challenges for citizens initiatives that are focused on supporting the dialogue between ethnic communities. Common Values is actively involved in the process of achieving those challenges which are an important aspect for a faster integration in the European Union.

Common Values focuses its efforts on three important areas:

- **Rule of Law** - implementation of the Ohrid Framework Agreement acts in the practical legal solutions, monitoring the situation regarding the protection of human rights;
- **Capacity Building** – strengthening the capacities of local authorities, nongovernmental organizations and state institutions for addressing the problems related to ethnic communities and bringing about solutions;
- **International Cooperation** – exchange of experiences with likewise organizations from the neighbouring Southeast European countries as well as other European countries.

Common Values undertakes a wide variety of activities both at local and central level towards citizens, nongovernmental organizations, local authorities and other administrative bodies, state institutions, educational institutions as well as international organizations. Such activities include the drafting of monitoring reports, policy analysis and advice, publishing of guidebooks, researches, training sessions, conferences, debates, public information campaigns, lobbying and advocacy initiatives.

Common Values is devoted to overcoming obstacles on the road to joining the European Union.

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