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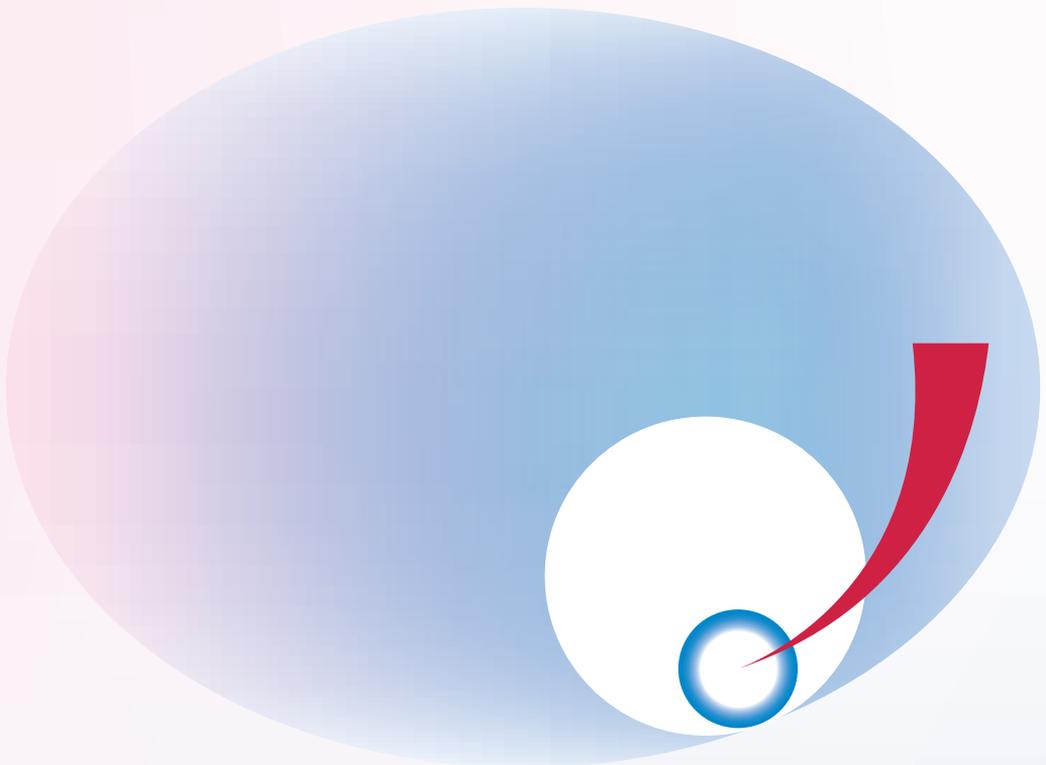
# FORUM

FORUM ZA ETNIČKE ODNOSI | FORUM FOR ETHNIC RELATIONS

*Policy Paper*

## **Minority Policy in Serbia – Fostering Integration**

Analysis and Recommendations for Improving Minority Policy and Integration Process in the Republic of Serbia





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Republic of Serbia



Belgrade, 2014

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and Integration Process in the Republic of Serbia

Belgrade, May 2014.



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# Editorial

The study „Analysis and Recommendations for Improving Minority Policy and Integration Process in the Republic of Serbia“ is a result of eight months of research carried out by a team of the Forum for Ethnic Relations as part of the project „Minority policy in Serbia – Fostering Integration“. The aim of the project is to analyze the existing minority policy in Serbia, the influence of politics on the integration of minority communities, and provide suggestions for its improvement. The project was implemented with the support from the British Embassy in Belgrade, the Netherlands Embassy in Belgrade, the Office of the High Commissioner on National Minorities of the OSCE and the OSCE Mission to Serbia.

Preparatory activities of the project included visits to institutions relevant for the implementation of minority policy at local and national levels so we had meetings with representatives of national councils, local self-government, councils for inter-ethnic relations and we had discussions with political parties and individuals who are not involved in the work of the national council but whose activities are an important contribution to the life of a minority community and Serbian culture in general.

Project activities were organized and implemented regionally, with the intention to cover all individual characteristics of minority communities and social environments in which they reside, and enable a close review of minority – majority relationships on a local level. Discussions and round tables were organized in five Serbian regions – in eastern Serbia with members of the Vlach and Bulgarian national minorities, in southern Serbia with members of the Albanian community, in southeastern Serbia with Bosniaks, and two round-table sessions in Vojvodina – one with members of the Hungarian community and the other with other communities living in Vojvodina.

After preliminary discussions, five round-table sessions were organized in the mentioned regions. The final conference was organized in Belgrade, which included representatives of all minority communities, and at which the study

„Analysis and Recommendations for Improving Minority Policy and Integration Process in the Republic of Serbia“ was presented.

A document of the High Commissioner on National Minorities of the OSCE entitled “The Ljubljana Guidelines on Integration of Diverse Societies” was presented at each round-table session and served as a basis for discussions and a framework for preparation of the study. The Ljubljana Guidelines provide a list of measures addressed to both the state and minority communities and may serve to improve the majority – minority relations, facilitate integration of minority communities, and create conditions for the establishment of a functional state and society in general. It should be noted that integration of minority communities into wider social and political trends does not mean their assimilation but an equal position of all citizens of Serbia, with special attention and support to the distinctive characteristic of each national community.

This study came as a result of consultations and conclusions from round-table sessions, during which each participant had an opportunity to comment and give proposals to the draft version of the text. In the study, we analyzed the legal framework for the protection of minorities in Serbia and practical implementation of laws and policies that should improve the position of minority communities. However, the inevitable conclusion reached during all consultations and preparation of this study was that Serbia is lacking a comprehensive minority policy that would lead toward integration as an important part of a functional society.

The study and recommendations lead towards the improvement of the position of national minorities in Serbia and we are certain that it would serve those involved with issues pertaining to minority – majority relations, especially to the government of the Republic of Serbia whose responsibility is to formulate and implement (minority) policy.

Finally, I would like to express my gratitude to the team of authors who either participated in the making of this study or provided constructive comments during round-table sessions and contributed to its quality:

Mrs. Ljubica Đorđević, Ph.D, junior professor at the Faculty of European Legal and Political Studies, who prepared the draft version of the text and provided us with guidelines; Mr. Dušan Janjić, Ph.D, a research fellow at the Institute of Social Sciences; Mr. Francesco Palermo, Ph.D, Institute for Studies on Federalism and Regionalism, Bolzano; Mr. Alexander Hug and Mr. Sean McGreevey, representatives of the Office of High Commissioner on National Minorities of the OSCE; Ms. Danijela Nenadić, *Director of the Government of Serbia Coordination Body for the Municipalities of Preševo, Bujanovac and Medveđa*; Mrs. Ksenija Marković and Mrs. Nevena Milićević, *associates of the Forum for Ethnic Relations*.

Belgrade, May 11<sup>th</sup>, 2014.

Nenad Đurđević, Coordinator  
Forum for Ethnic Relations

# 1. Introduction

The process of democratic transformation in Serbia was initiated back in 2000, with the aim to establish a democratic society, based on the rule of law and respect for human rights, including the rights of persons belonging to minorities. The success of democratization depends, largely, on effective participation of minorities, and definition and implementation of the national minority policy.

Since 2000, a significant progress has been made towards setting up the constitutional and legislative framework, and key institutions for safeguarding national minorities and their rights and freedoms in the Republic of Serbia. The fundamental law concerning the minority protection was passed in 2002 (the Law on Protection of Rights and Freedoms of National Minorities) and two core international treaties in the field of human and minority rights were ratified, among others, the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages. A new Constitution of the Republic of Serbia was adopted in 2006. Apart from the principles governing the new minority policy, the Constitution sets an extensive catalogue of the rights of national minorities and persons belonging to national minorities, with most of the rights taken from the previous law. Finally, the Law on National Councils of National Minorities was adopted in 2009. Apart from that, relevant provisions were incorporated into other laws concerning the exercise of guaranteed rights and freedoms of national minorities and their members (e.g. education, culture, language, etc.). The concept of guaranteed individual and collective rights, and in particular the right to self-governance and the possibility of electing national councils through which national minorities can administer their collective rights, place Serbia among the top countries in Europe when it comes to the issues concerning the status of national minorities. In spite of that, it can be argued that the *legal and institutional system* of minority protection in Serbia is fully developed, coordinated and efficient.

However, development of the constitutional, legal and institutional framework for the national minority policy does not rest upon a thoughtful strategy for improving the status of minorities developed through extensive consensus, but rather on *ad hoc* and in response to pressure from the international community and leaders of minority political parties having a role and political influence in the change of government in 2000. Apart from this, until the dissolution of the State Union of Serbia and Montenegro in 2006, development of regulations concerning minority rights was the responsibility of state union institutions. This framework was not underpinned by relevant regulations passed at the level of the republic. In 2002, the Assembly of the Federal Republic of Yugoslavia adopted a law on minorities, following active consultation with representatives of the international community, minority communities and citizens' organizations, but the existing legal framework was inadequate for implementation of the new law. Most of laws that were in place until 2006, originated from Milosevic's time, including the Constitution of the FRY (adopted on 27 April 1992)<sup>1</sup>, the Constitution of the Republic of Serbia adopted on September 28, 1990, the Statute of the Autonomous Province of Vojvodina adopted on June 29, 1991, including federal and republic laws and regulations developed under an inadequate constitutional framework. The new Constitution was adopted in 2006. It contains many formulations taken from the Charter on Human and Minority Rights and an extensive catalogue of human and minority rights (to some extent, too extensive and untypically detailed for a constitution). The problem with Serbian Constitution is lack of legitimacy and power to ensure adequate legal framework for political processes in the country. Therefore, a number of laws adopted in Serbia are not in line with the constitution, even though the deadline set for harmonization stipulated by the Constitutional Law, has passed long ago. With occasional interventions of the Constitutional Court, which are not supported by adequate response of the legislature, it is even more visible that the "legal system" is chaotic.

Discrepancies between the minority policy and practice are manifested through procedural non-compliance, unclear division of responsibilities between institutions, strong tendencies towards the closure of national communities along ethnic and national lines, with growing internal conflicts. Such circumstances push national communities to seek for solutions depending on external arbitration, which sometimes comes from central authorities and very often from outside the country, either from the so-called kin states or international organizations. Apart from this, conflicts between the majority population and minorities, eventually lead to the formation of parallel societies.

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1 With the dissolution of the FRY and formation of the State Union of Serbia and Montenegro, the Constitutional Charter on Human and Minority Rights and Civil Freedoms was adopted, which took most of the protections of minority rights from the federal law.

Strong politicization of the society as a whole, including national minorities, is manifested by over-representation of minority political parties in national councils and adoption of provisions turning them into the parastatal bodies. This leads to further instrumentalization of the minority policy and weakening of ties inside communities, including the communication and cooperation between national minorities. To improve the existing minority policy, it will be necessary to adopt new instruments for promoting diversity, non-discrimination, acceptance of differences and multilingualism. It is also necessary to place greater focus on values, procedures and institutions for integration.

The minority policy of 2000 has some positive aspects, such as, opening to the outside world, acceptance of international standards, in particular by ratifying the EU conventions, but also improved cooperation with neighboring countries - kin states of some minorities. Progress made in this area satisfies the criteria which require monitoring of regional cooperation and influence on regional stability, and manifests that the Republic of Serbia recognizes in the respect for and protection of minority rights its minority policy, as condition for EU accession. Human rights and respect for and protection of minorities fall within the scope of the so-called political criteria. Monitoring of progress in this field starts when the country acquires the status of candidate for EU membership and goes through until the negotiations in Chapter 23 are completed. It also applies to monitoring good neighborly relations with countries of former Yugoslavia (Bosnia and Herzegovina, Montenegro, Croatia, Macedonia) concerning the rights of "new minorities", but also with member countries, including Croatia, Bulgaria, Hungary, Romania. Respect for the rights of national minorities is an indicator of Serbia's capability to implement its laws and be a state governed by law. Among other things, respect for minority rights reflects and confirms the multinational dimension of Serbia as a state, which combines all regional diversities.

Given the lack of specific EU standards in the fields of minority protection, it is especially important for Serbia to use the period of accession negotiations effectively, to define its minority policy and create conditions that will ensure integration of all communities in the country. This task requires a wide range of bilateral cooperation activities in order to overcome a number of practical problems concerning the exercise of rights and freedoms of persons belonging to national minorities (e.g. representation of Croats in legislative and other public institutions; representation and public participation of Hungarians, Romanians, Vlachs and Bulgarians, and the right to preserve and develop the minority identity, in particular through cultural heritage and language). Normalization of relations between Kosovo and Serbia is a special challenge for the minority policy. It has been under the framework of Chapter 35 associated with the accession negotiations and connected with solution of problems between the Albanian community and the government, including the Serb community

in southern Serbia. Apart from this, Serbia has opted for the policy that implies active cooperation and support to Serbs living in Kosovo and other territories of the former Yugoslavia, but also in the neighboring countries and the Diaspora. These complex tasks indicate that there is room for continuous improvement and need to put in place a comprehensive minority policy framework, which can respond to all diversities and facilitate the integration of society. A comprehensive integration policy framework will also bring Serbia closer to the EU, build internal consensus around the issues concerning minorities and improve relations with its neighbors.

The Ljubljana Guidelines on Integration of Diverse Societies are important for formulating a comprehensive minority policy in Serbia. They contain a set of guiding principles and practical examples to assist the states in implementing policies to facilitate the integration of diverse societies.

## 2. Structural principles of integration

### 2.1. A sovereign and functioning State

The success of integration policies depends on a sovereign and functional State and its capacity to develop and implement its institutional and legislative framework. State sovereignty is based on the legitimacy (level of public support for the state and its legal system), effective legal framework, developed democratic institutions and respect for human rights (including special rights of numerically smaller minorities or particularly disadvantaged groups).

In ethnically diverse societies, well-functioning of state to a large extent depends on its ability to adequately respond to the diversity, create conditions to avoid the emergence of separation and conflicts between (ethnic) loyalty to national community and (civic) loyalty to the state and society. A functioning state and effective integration are interrelated and interdependent. Engagement and participation of persons belonging to minorities in society and state affairs strengthens legitimacy of the state; respect for diversity improves the democratic process based on open dialogue; and respect human rights strengthens democratic institutions.

After the regime change in October 2000, Serbia entered a process of democratic transformation aimed at building a functioning democratic state. Different stages in this process have been more or less burdened by legacy of war, weak institutions, poverty, social disorientation and confusion over values. However, undoubted progress has been made since 2000 until now. The EU accession process should assist Serbia to strengthen democratic institutions and the rule of law.

In the Republic of Serbia, numerous issues have not been regulated in the normative framework and in practice. In support of this, we remind that the old Constitution that was replaced with the new one in 2006 was adopted with the purpose to remove resemblances with the old regime. However, there was no extensive public debate and consensus built around core principles and values of democratic society. The adoption of the new Constitution was rather an expression of the political will and “good opportunity“ that was created when Serbia became its own entity after Montenegro split.

The Constitution of the Republic of Serbia (adopted on November 8, 2006)<sup>2</sup> deals with the so-called substantive (organic) rights of national minorities in section 3: *Rights of Persons Belonging to National Minorities* (Articles 75 to 81) under chapter on Human and Minority Rights and Freedoms (Section II of the Constitution). These constitutional provisions are directly applicable and represent a major expression of the minority policy of the Republic of Serbia. The Constitution provides a satisfactory legal framework for the status of national minorities and meets the international standards in this field.

## 2.2. Good and democratic governance

A successful integration policy can be implemented only in societies in which rules and procedures of the political system based on the will of all citizens are respected. Even though Serbia is a state with free elections in which the opposition parties and civil society can act freely, it has not yet built effective mechanisms for including citizens in the control of government. This is one of democratic deficits of the current system in the Republic of Serbia

This democratic deficit affects integration policy in three different ways. Firstly, persons belonging to national minorities who are at the same time citizens of Serbia feel detached from political leaders. Given that political parties of national minorities participate in the political life of Serbia, they also contribute to this situation. Persons belonging to national minorities progressively lose confidence in their political parties and “minority elite“. And finally, highly politicized society has adverse effect on national minority councils and performance of their respective work. The ability of minority political parties which have greater capacity than unorganized members of national minorities to set their lists for the election for national minority councils, has turned the election into a suitable playground for inter-party competition with known outcome - domination of a particular political party is confirmed in national

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2 The Official Gazette of the Republic of Serbia 83/2006.

minority councils, while these institutions are becoming the collateral arena on which political parties fight to acquire power. This further contributes to divisions within minority communities, creates the feeling of exclusion among persons who do not belong to the winning “stream” and burdens national minority councils in performing their respective functions.

Inclusion of individuals and social groups in wide political, economic, social groups and processes is the root of every integration. Therefore, strengthening democracy in Serbia requires stronger instruments for ensuring active participation of citizens (regardless of whether they belong to the majority population or minorities) in the political process. In this respect, it is crucial to direct the political process toward democratic institutions and reduce excessive influence of political parties. To achieve the effective integration requires building democratic capacity of minority political parties and creating the conditions for inclusion of persons belonging to national minorities through their parties in the political process. It is crucial to build democratic and autonomous capacity of national councils, so that persons belonging to national minorities perceive their national councils as the institutions which protect the interests of entire community (not only the interests of a given group), ensure the preservation of national identity and inclusion of minorities into a society. Therefore, it is important to provide opportunities for persons belonging to national minorities to have direct influence on the election and work of national minority councils and to develop efficient instruments that will enable control of the work of national minority councils.

### 2.3. Non-discrimination and effective equality

Integration is based on equality and recognition of diversity of individuals and groups that are being integrated into society as a whole. Prohibition of discrimination is not only a fundamental principle for the enjoyment of human and minority rights, but also a prerequisite for building an open and tolerant society. Discrimination can lead to destabilization of society, as a consequence of exclusion of a particular group from social processes due to past, systemic or persistent discrimination. In order to prevent this, it is not always sufficient that the government responds to individual cases of discrimination. Instead, special measures are required (affirmative or positive action) to further strengthen the standing of disadvantaged groups and ensure full and effective equality of these groups with other members of population who have not been exposed to discrimination.

As regards the prohibition of discrimination in the Republic of Serbia, the existing legal and institutional framework against discrimination is satisfactory

(more details will be provided in chapter 4.1). However, the fight against discrimination cannot be won by legislation alone. First and foremost, it depends on the environment in which the existing legal framework is implemented. To that end, there is a need to promote and foster a climate of tolerance and respect for diversity, improve the capability of recognizing and taking a stand against discriminatory practices and behaviors, and raise public awareness of the existence and the unacceptability of discrimination. As for measures of affirmative action, there is a need for more active approach. First and foremost, it is necessary to improve the legal framework. The Constitution stipulates special measures (affirmative action) that may be introduced by the state, which are not deemed discrimination, even though the effect of these measures for national minorities is narrowed. The purpose of special measures is to achieve full equality among persons belonging to national minorities and citizens who belong to the majority, with one important restrictive provision according to which special measures can be applied only if they are aimed at eliminating *extremely* unfavorable living conditions which *particularly* affect them. This provision restricts the application of special measures to all persons belonging to national minorities. Apart from this, special measures are not further regulated by legal acts of lower legal strength (laws and bylaws), which creates uncertainty in terms of the extent and manner in which these measures are applied. Because of this, special measures are generally not implemented for improving the status of national minorities, except to some extent for the Roma. The use of special measures is additionally hampered by unclear public understanding of the affirmative action concept, which causes stiff public disapproval to the "special treatment" received by persons belonging to national minorities. This is manifested by difficulties in implementing the special measures targeting Roma.

## 2.4. Respect for and protection of human rights, including minority rights

Implementation of integration policy takes place in a suitable legal framework that ensures respect for and protection of human rights, including minority rights. Legal aspects of integration policy mainly imply to development of adequate legal framework for minority rights, institutions responsible for implementation of minority rights and control mechanisms of protection against violations of minority rights.

Inclusion and participation of persons belonging to national minorities in a society is achieved through effective implementation of human rights and

special rights aimed at preserving the national identity. In this respect, Serbia has adopted a comprehensive catalog of rights guaranteed to minorities in order to preserve their distinctive feature (identity). This catalog of rights is grounded in the Constitution, ratified international treaties (multilateral treaties - most notably the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages, bilateral agreements signed with Croatia, Hungary, Macedonia and Romania), laws which directly regulate the protection of national minorities (the Law on Protection of Rights and freedoms of National Minorities and the Law on National Councils of National Minorities), and other sector specific laws that are relevant to the protection of minority rights (e.g. laws on the use of official languages, education, mass media, culture, procedural laws, etc.). However, despite the extensive regulations and a comprehensive catalog of minority rights in place, these rights are not fully and consistently implemented in practice. This argument is backed by several reasons:

- The Constitution and law do not provide sufficient grounds for the implementation of minority rights. They need to be spelled out in specific by-laws some of which are still missing in many areas concerning the protection of minorities, making it difficult or impossible to implement all minority rights. This conclusion is indicated by difference in the level of implementation of minority rights throughout the country, which is higher in Vojvodina than in other parts of Serbia. This difference can be partly explained by the fact that the Autonomous Province of Vojvodina has passed a whole set of by-laws thus contributing to implementation of minority rights<sup>3</sup>.
- A catalogue of minority rights contained in the Constitution seems somewhat oversized and inappropriate in some segments, considering the capacity of the state and national minorities. The legal framework for protection of minorities is detailed and complex, but appropriate mechanisms for ensuring the implementation of adopted standards are missing. In the process of developing its legal framework for the protection of minorities, Serbia was guided by the desire to meet all requirements set by the international community and demonstrate its commitment to the protection of human and minority rights, in order to remove the burden of its authoritarian and

3 Listed below are some of decisions: Provincial Assembly Decision on the Council of National Communities ("Official Gazette of APV", No. 04/10); Decision on Provision of Grants to Ethnic Communities from the Budget of the Provincial Secretariat for Regulations, Administration and National Minorities of Autonomous Province of Vojvodina ("Official Gazette of APV", No. 5/2006); Provincial Assembly Decision on Detailed Regulation of Issues Concerning the Official Use of Languages and Scripts of National Minorities in the Territory of APV ("Official Gazette of APV", Nos. 08/03, 09/03, 18/09, "Official Gazette of RS", No.69/2010 –Decision of the Constitutional Court of RS); Decision on Allocation of Funds from the Budget of the Provincial Secretariat for Regulations, Administration and National Minorities of Autonomous Province of Vojvodina, to Bodies and Organizations Officially Using Languages and Scripts of National Minorities ("Official Gazette of APV", No. 6/2008)

nationalist past, rather than by the needs of the society and minorities, and did not tailor its legal framework according to their needs. Not all national minorities, however, have the capacity to exercise the rights that are available to them. Some national minorities are with very small populations or live geographically scattered throughout the country, while others the so-called new minorities are still adjusting to the new status and build their minority institutions. Some people belonging to national minorities do not enjoy their rights because they are not fully aware of them. On the other hand, public authorities are often insufficiently sensitized to human and minority rights, so the citizens belonging to national minorities (the same as those belonging to the majority) do not insist on consistent implementation of their rights because they want to achieve some other primary right or interest (e.g. a person who wants the proceeding conducted in court or other government institution to be completed quickly, will not insist on the use of minority language in the proceeding).

- Finally, problems with the protection of minority rights also influence their implementation. Effective remedies/instruments for the protection of some minority rights are still missing (e.g. if a local government assembly does not want to amend its charter so that a minority language can be introduced in official use), whereas the protection of some other rights is aggravated due to sluggishness of the judicial system because of which people do not want to engage in expensive, long and uncertain battle to protect their rights.

## 3. Principles for integration

The principles for integration are precondition for formulating integration policy. The Ljubljana Guidelines on Integration of Diverse Societies also deal with the principles of integration.

### 3.1. Recognition of diversity and multiple identities

A diverse society is marked by multiple identities of its population. The aim of integration policy is to create a framework in which multiple identities can be maintained, developed and changed with mutual respect. Integration policy should recognize the distinct characteristics of groups that are inherent to their ethnic, religious, linguistic, cultural and other identities, and should also recognize the diversity that exists within the group itself.

The structure of the population in the Republic of Serbia with minorities taking a large percent of total population indicates the importance of acknowledging ethnic diversity. In legal terms, diversity is acknowledged through recognition of special rights for persons belonging to national minorities aimed to preserve their national identity. Rigid perception of identity and classification of individuals based on a single attribute, into precise and exclusive categories, is problematic for recognizing diversity.

A more flexible approach to identity and diversity is not important only for the state and its majority population, but for minorities as well. It can be noticed that some national minorities (or minority "elites") insist, and rightly

so, on recognizing and preserving their distinctive features, but are reluctant when it comes to other national minorities and recognition of their distinctive features, or do not recognize diversity in their own communities. This is well reflected in disputes between Croats and Bunjevci, animosity between Roma, Egyptian and Ashkali, and conflicts within the Bosniak and Vlach national minorities. Therefore, full recognition of diversity should not be limited to recognition of minority identities by the majority, but also mutual recognition amongst national minorities and acceptance of diversity within them.

### 3.2. Primacy of voluntary self-identification

Affiliation with a minority group is a matter of personal choice, which must, however, also be based on some objective criteria relevant to the person's identity. Affiliation with a community is matter of personal choice and authorities should not affiliate persons with a specific group based on visible characteristics or other presumptions without their consent. The legal system of Serbia guarantees the right to public expression of national affiliation and rests on the principle of voluntary self-identification as the key criterion for affiliation of individuals with a national minority. However, the principle of voluntary self-identification is not fully implemented in practice.

The first problem is related to the self-identification of Bunjevci and Vlachs. In the case of Bunjevci, the identity conflict has been manifested through resistance against the tendency of Bunjevci to develop their own identity as a national minority and perception that Bunjevci are Croats. In the case of Vlachs, the problem is internal and takes place within the community. It reflects the conflicting aspirations of those seeking to preserve the Vlach identity on the one side, and those insisting on the Romanian identity roots and "Romanisation" of this community, on the other. The problem is aggravated by ambivalent attitude of the state towards these conflicts. Responsible behavior of the state implies measures to create an environment in which problems between communities (in the case of Bunjevci and Croats) and within a community, itself (in the case of Vlachs) can be solved through constructive dialogue.

The next problem with the right to self-identification concerns the free expression of national affiliation in the census. Indeed, almost all minority communities cast doubts on the reliability of census data. They assume that the actual number of their minority members is higher, and believe that people are not encouraged enough to identify themselves as members of the minority. In this context, it should be pointed out that the right to free expression of national affiliation should not be linked only with the state, but also with a minority

community. Persons perceived by a specific minority as its members, are not obliged to express themselves as the members of that community. However, an area where there is room for improvements is the census procedure, in the part concerning the right to public expression of national affiliation (including religious and linguistic affiliation). In this regard, it is important to ensure that ethnic structure of enumerators reflects ethnic structure of the population in local community, and that enumeration can be carried out in the language of a national minority.

The third problem with public expression of national affiliation refers to the registration in the special electoral roll for national minorities. Instructions on the procedure of registration in a special electoral roll for national minorities have given the opportunity to anyone to submit a virtually unlimited number of applications for registration in the special electoral roll “on behalf of citizens“, without identity check and without a special power of attorney.<sup>4</sup> This opportunity opened wide the door for registering a number of citizens in special electoral rolls without their knowledge and against their will. Examples show that, in practice, multiple and unsigned applications were submitted. There were cases of citizens who requested to be deleted from the special electoral roll for one minority and to be registered in the roll of the other, or just to be deleted from any special electoral roll.

Finally, there are problems with “false declarations“ of affiliation to a particular national minority in order to get advantages from affirmative action measures. In this context, the question can be raised whether there are limits to self-identification, i.e. whether persons can be affiliated with a special group based solely on personal choice or should self-identification be limited based on objective criteria. This can be illustrated with two examples. In the first example, non-Roma declare themselves as Roma in order to get preferential treatment within the framework of affirmative action measures for the enrollment of Roma students in higher education institutions. Another example relates to the registration of minority political parties in order to take advantage from preferential treatment in the election procedure. Both examples are concerned with the abuse of minority rights. The state therefore needs to put in place appropriate mechanisms to prevent the abuse of minority rights.

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<sup>4</sup> Draft Law on Amendments to the Law on National Councils of National Minorities, Article 47, paragraph 3 provides that “A member of a national minority shall be entered in a special electoral roll for national minorities at request made by personal appearance“. This provision prevents other person from submission of requests on behalf of a member of national minority. The draft law has not yet entered the parliamentary procedure.

### 3.3. Non-isolationist approach to minority issues

The successful minority policy should recognize that it is essential for societies to find the appropriate balance between the degree of separation that is necessary to preserve distinctive features of a national minority and include it in a society as a whole. The successful policy for minorities should preserve national identity of a national minority on the one hand and establish and strengthen links between and among the diverse communities of a society as a whole on the other. It is essential that the level of separation between communities is sufficient to preserve their distinctive features and that it does not become excessive, and thereby leading to self-sufficiency and isolation from a society as a whole. In order to achieve this, the improvement of the status of national minorities cannot be separated from other sectoral policies. Only interconnected sectoral policies can lead to the improvement of the status of national minorities.

The legal framework for the protection of national minorities in Serbia is primarily aimed at preserving distinctive features of minorities, and less at strengthening links between the diverse communities of a society, and not at all at improving the relationship between the majority and minority communities. This means that cross-community and cross-culture communication is not in the focus of minority policy. One of effects of the minority policy of the Republic of Serbia is segregation. This is reflected by parallel existence of the majority and minority communities to that of the population as a whole. Major responsibility for such situation is borne by the state, which has a key role in developing and implementing integration policy. Instead of being proactive, the state reacts only when the international community and minorities that have a significant political influence request its reaction. Apart from that, the minority policy focuses almost entirely on minority population and does not deal with the majority and its attitude towards diversity. Elites of national minorities should also take part of responsibility, because of isolating their minorities in order to keep and strengthen their power.

### 3.4. Shared public institutions, a sense of belonging and mutual accommodation

The effective integration is a process which requires that all persons belonging to national communities accept common public institutions and have a shared sense of belonging to a common state and an inclusive society. On the other hand, successful integration assumes that the state should treat persons belonging to national minorities as equal citizens who have the right to exercise all rights foreseen for citizens and for persons belonging to national minorities without any discrimination. Events of the recent past and armed conflicts along ethnic lines hinder the implementation of the integration policy by increasing ethnic distance and distrust among people. This is particularly evident in Serbian-Albanian and Serbian-Croatian relations or in the attitude of persons belonging to Albanian and Croatian national minorities towards the police and other "apparatus of state power".

Unlike the concept of ethno-national state in which citizenship is related to ethnicity, a comprehensive integration policy is based on the acceptance of a diverse society by the majority leaders and willingness of the majority to accommodate themselves to life in a diverse society. Therefore, for effective integration policy it is crucial to change the cultural and other values, build mutual trust and strengthen the sense of belonging.

### 3.5. Inclusion and the effective participation

The effective participation on an equal footing of all members of society as a key element of integration policy will be discussed later in separate chapter of this analysis. If persons belonging to national minorities do not participate in public affairs and have a feeling that they cannot influence the decision-making process, it will further weaken their trust in the state and society, and contribute to self-isolation of a minority community. That is why the successful integration policy should support and promote the effective participation of persons belonging to national minorities in public affairs and distribution of economic and social wealth. The successful integration policy should ensure full participation of persons belonging to national minorities in formulating and implementing integration policy and develop sense of ownership for that policy, and contribute to their own participation in social processes.

### 3.6. Rights and duties

Integration as such is not a one-way process in which the state has a duty to integrate all members of a society, who, at the same time, are not expected to take active role in this process. Integration is a process involving all. Not only the rights, but also the duties of members of society are shared. In this respect, we refer to the responsibility of national minorities for integration, rather than their duties in the process. National minorities in Serbia should play lot more active role in improving their own status and integration process in general. National minorities and their institutions in the Republic of Serbia should undergo some kind of emancipation, i.e. they need to become free from tutoring of the state, but also from the isolation oriented elites and policies, and build capacity for the rights and responsibilities for integration process. This is especially true for national councils of national minorities, institutions responsible for ensuring the exercise and protection of minority rights. The state transferred a significant part of its competences on these institutions. Because of this, some legal requirements concerning the minority rights are no longer directed to the state. Apart from duties concerning the exercise and protection of minority rights, national councils should contribute to integration processes in the country. By protecting and promoting the national identity of minority communities, national councils encourage intercultural links in a society as a whole.

### 3.7. Inter-community relations

The essence of integration policy is to establish interaction between different communities, promote and recognize diversity. To that end, integration policies should include measures that promote cross-community understanding and interaction based on mutual respect. Specific measures will be discussed in section 5.

### 3.8. Policies targeting both majorities and minorities

Integration is a process involving all members of society, both majorities and minorities. As such, the successful integration also leads to gradual adjustment of majorities to minorities. The experience of the minority policy implementation in Serbia indicates a tendency to perceive integration as a process of integrating minorities into a society as a whole. Apart from that, specific integration policies (instruments) targeting majority population almost do not exist. Education curricula for Serbian language do not include information about minorities and their contribution to the culture and history of the country; the media (majority) do not reflect ethnic, cultural and linguistic diversity of society in all programming for all audiences; situation is the same in regard to cultural institutions and public events.



## 4. Elements of an integration policy framework

### 4.1. Formulating effective policies

The successful integration policy starts with political compromise over the vision of development of Serbia and comprehensive integration-policy strategy which includes specific short-term and mid-term action plans, in line with the legal and institutional framework. It is important that integration policies set clear targets with indicators and benchmarks to enable evaluation and monitoring the effectiveness of implemented policies over time.

Serbia adopted a large number of specific strategic documents in different areas, such as, policy to fight discrimination against Roma and integration policy for Roma. However, there is no an overarching strategy behind a coherent minority and integration policies. Apart from the state, minority elites (represented in the national councils and political parties of national minorities) bear part of the responsibility for absence of coherent minority and integration policies, because they failed to take an active role in the process of managing diversity. Strategies of those national councils, which have developed such strategies, focus on improvement of the status of a respective national minority, rather than on the overall integration. In the absence of an overarching strategy, the minority and integration policies depend primarily on secondary legislation – decrees, ordinances, rules and similar bylaws governing the exercise and protection of the rights of national minorities and persons belonging to national minorities, which in many cases do not comply with the constitution and law. As for this, persons belonging to national minorities often point to

problems regarding the right to official use of language, education in minority languages, and especially textbooks in minority languages.

An issue of serious concern is lack of adequate instruments for monitoring the implementation of minority rights and assessing the effects of minority policies. Another issue of concern is missing part of legislation on processing of personal data of persons belonging to national minorities

## 4.2. Legislation and institutions

The rights of persons belonging to national minorities in Serbia are embedded in the number of national and international legal documents. The legal framework for protection of minorities is composed of the Constitution of the Republic of Serbia, ratified international treaties, laws concerning the issues of minority rights, and legal acts passed at the level of autonomous province and local self-government units.

Taking into account ethnic diversity of the population, the Constitution stipulates that the legal system of Serbia rests on the principles of liberal civic democracy and multiculturalism. The principles of civic democracy contained in Article 1 and commitment to sovereign citizens (not ethnic collectivities; Preamble, paragraph 2, Article 2, paragraph 1, of the Constitution) pervade the entire text of the constitution. Some provisions and norms, nevertheless, indicate that the legal system stipulated by the constitution is not purely liberal democratic. The preamble announces that starting points for enacting the Constitution are the state tradition of the Serbian people and the equality of all its citizens and ethnic communities. This is repeated in slightly different form in Article 1 defining the Republic of Serbia as a state of Serbian people and all citizens who live there. While this definition may be criticized for emphasizing the ethnic character of the state, no legal consequences should follow from it in practice<sup>5</sup>. Nevertheless, the rights and freedoms guaranteed to minorities are much more important for assessing the status of national minorities. This applies to the rights and freedoms connected with the civil status of persons belonging to national minorities and those arising from the need to preserve their identity.

At the normative level, the Constitution deviates from a model of pure liberal democracy, which is manifested in the Law on Protection of Rights and Freedoms of National Minorities in such a way as to provide excessive protec-

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<sup>5</sup> Upor. European Commission for Democracy Through Law (Venice Commission), Opinion on the Constitution of Serbia, Opinion no. 405/2006, CDL-AD(2007)004, Strasbourg, 19 March 2007, s. 4.

tion for national minorities and grants additional and special rights to persons belonging to national minorities (Articles 14, 21, 47 – 49 and 75 – 81, Section 2, Title 3, of the Constitution). By regulating the rights of persons belonging to national minorities in a special section, the Constitution does not imply that “general” rights pertain only to the majority and “special” rights pertain to minorities. On the contrary, general guarantees for human rights pertain to all citizens regardless of their national or ethnic identity, while the prohibition of any kind discrimination is at the core of democracy and represents a prerequisite for protection of national minorities<sup>6</sup>. In terms of the content, most of the minority rights established by the Constitution are not special. Those are rights granted to all citizens, except that the constitution stipulates special guarantees to minorities, particularly for the rights that are relevant for preserving and developing the national identity and cultural heritage of persons belonging to national minorities. Especially important is Article 79, which guarantees to persons belonging to national minorities the right to preserve and develop national, ethnic, cultural and religious distinctive features, use of their language and script, education in their language, information in their language, topographic names written in their language and use of their symbols in public places. To exercise these rights, the constitution grants cultural autonomy to national minorities and enables them to elect their national councils (Article 75, paragraphs 2 and 3).

Regulating the status of national minorities by Constitution is an important precondition for strengthening multiculturalism in the country. Yet, the idea of multiculturalism should not boil down to peaceful co-existence of persons belonging to different national communities (majorities and minorities living next to each other). It should develop and grow into intercultural communication and stable relations between communities. In this respect, the Constitution is not fully consistent. While Article 48 stipulates that the Republic of Serbia shall promote “understanding, recognition and respect for diversity” (segregative multiculturalism), Article 81 establishes that Serbia shall “give impetus to the spirit of tolerance and intercultural dialogue and undertake efficient measures for enhancement of mutual respect, understanding and cooperation”, indicating a tendency towards the establishment of integrative multiculturalism.

Treaties are an important element of the legal framework governing minority policy in Serbia. Treaties can be classified into two groups, with multilateral treaties in the first group, in particular, the instruments adopted by the Council of Europe aimed at providing direct protection for national minorities (the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages). The second group is made up of bilateral agreements signed with four neighboring countries:

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6 See arts. 21 and 76 of the Constitution of Republic of Serbia

Croatia, Hungary, Macedonia and Romania. The aim of these agreements is to ensure the protection of rights for persons belonging to Croat, Hungarian, Macedonian and Romanian minority in Serbia, as well as the status of Serb minorities in those four countries.

These treaties cannot be fully explored in this paper, and therefore we shall focus only on few important elements.

The Framework Convention for the Protection of National Minorities (FCNM) strongly influenced the development of national legal framework pertaining to national minorities, and in particular the Law on Protection of Rights and Freedoms of National Minorities, including the Constitution that was adopted later.

Many provisions contained in the FCNM have been translated into domestic law on the protection of the rights and freedoms of national minorities, which in many aspects surpasses standards set by this convention. This is a positive trend, which demonstrates the state's commitment to the safeguarding of minority rights, on the one side, but also poses the question whether the state will have the capacity to meet all obligations stipulated by the law.

By ratifying the European Charter for Regional or Minority Languages (ECRML), Serbia (when Serbia was still within the state Union with Montenegro) accepted to promote and protect ten languages (Albanian, Bosnian, Bulgarian, Hungarian, Romany, Romanian, Ruthenian, Slovak, Ukrainian and Croatian). Some languages that are in official use in Serbia are not included in the list, such as Czech, while for example Ukrainian is protected even though it is not in official use. A particular problem exists regarding Bunjevac and Vlach, which were not in official use at the time of ratification, and thus are not protected under the ECRML. Concerning the implementation of the ECRML and its effects, the problem is that the same measures were accepted for all languages. The decision was not based on objective criteria (number of persons who speak such minority languages, needs and wishes expressed by communities, capacity for implementation, etc.), and the same obligation was accepted for all languages. This puts all languages into the same position, e.g. Hungarian and Bosnian and creates difficulties with implementation because the measures tailored for large and better organized minorities cannot be successfully implemented in small, dispersed or poorly organized communities. It is no longer possible to change the conditions, because of the principle of the protection of acquired rights. However, this raises the question of capacity of the state and particular minorities to implement the measures declared in the ratification instrument. Therefore, there is a need for continuous improvement and capacity building in this field in order to achieve effective implementation.

The main problem regarding the bilateral agreements on minority protection signed with four neighboring countries is the lack of binding mechanisms to ensure the implementation of agreed conclusions (minutes). The purpose

of agreed conclusions is only to inform the governments. Other problem is associated with bilateral commissions established to monitor the implementation of these agreements, which do not meet regularly. There is also the lack of administrative capacity to support their work.

The Law on Protection of Rights and Freedoms of National Minorities (the Law on National Minorities) together with the Law on National Councils of National Minorities (the Law on National Councils) form the backbone of legislation for the exercise and protection of minority rights.

The provisions of the Law on National Minorities rest upon the EU standards in the field of minority protection<sup>7</sup>, with clearly visible impact of the FCNM. This law has improved the system of minority protection in Serbia, in particular, by defining the concept of national minority, establishing the right of national minorities to maintain and develop their identity and introducing national councils of national minorities in the legal system of Serbia.

The law defines a national minority by using descriptive definition, without explicitly specifying minorities that are entitled to legal protection. According to the law, a national minority is any group of citizens numerically sufficiently representative, possessing characteristics such as language, culture, national or ethnic affiliation, differentiating them from the majority of the population and whose members are distinguished by care to collectively nurture their common identity (Article 2, paragraph 1). This open definition of national minorities follows a liberal model and allows to any “ethnic group” that meets the required criteria to acquire a national minority status. However, it should be pointed out that in accordance with the freedom of national affiliation, individuals with the above characteristics shall not be affiliated with a particular national minority without their consent, because the minority rights standards are clear in establishing that affiliation with a minority group is a matter of personal choice.

The central part of the law (part three) governs the right to preservation of identity. In this regard, the law stipulates the right to free choice and use of personal name (Article 9), the right to freely use their language (Articles 10, and 11), the right to cherish their culture and tradition (Article 12), the right to education in their own language (Articles 13, 14, and 15), the right to use national symbols (Article 16) and the right to public information in their own language (Article 17).

An important peculiarity of the law is that it introduces the national councils of national minorities as the form of cultural autonomy body. The Constitution of 2006, defines national councils of national minorities as constitu-

7 Concerning the recognition of collective rights of national minorities, the law surpasses the EU standards, which recognize only the collective exercise of individual rights of persons belonging to national minorities. Upor. Bašić, G.: Položaj nacionalnih manjina u SR Jugoslaviji (The Status of National Minorities in FRY), in: Bašić, G. et al. (ed.): Demokracija i nacionalne manjine (Democracy and National Minorities), Belgrade 2002, p. 35.

tional institutions. Article 19, paragraph 1, of the law stipulates that persons belonging to national minorities may elect national councils with the purpose of exercising rights of self-government regarding the use of language and script, education, information and culture. The role of national councils is to represent the national minorities in respect of official use of language, education, public information in the language of the minority, culture, and participate in decision-making or decide on issues in these fields, as well as establish institutions in these fields (Article 19, paragraph 7).

Even though the law sets forth the legal basis for effective role of national minorities in influencing their own rights, it has created three major weaknesses, which are still burdening national councils of national minorities. These weaknesses are related to the election of national councils and political influence on the election process, centralization of the minority autonomy and unclear and insufficiently defined responsibilities of national councils.

The Law on National Councils was passed seven years after the adoption of the Law on Minorities. Its purpose was to clarify the electoral procedures, status and competencies of these institutions and thus create conditions for consistent implementation of the right to cultural autonomy of national minorities.

The main subjects of the law are three main groups of issues: competencies, electoral procedures and funding of national councils, plus some other issues concerning the work of national councils (status related issues, international and regional cooperation, monitoring activities of minority councils). The law establishes national councils in compliance with the Law on National Minorities, as the cultural autonomy bodies of national minorities in the fields for culture, education, public information and official use of their language and script. National councils have three major types of rights and responsibilities in these fields – to represent a national minority, to decide or participate in the decision-making process and to establish institutions, companies and other organizations (Article 2, paragraph 2, of the Law on National Councils). A national council acquires the status of legal entity by registering itself with the register kept by the relevant ministry.

Apart from the Law on National Minorities, the rights of persons belonging to national minorities are governed by other specific laws. As a consequence of this, the provisions on the rights of minorities can be found in the Law on Official Use of Languages and Scripts, the Law on Primary Education, the Law on Secondary Education, the Law on Identity Card, the Law on Public Information, the Law on Local Self-Government, procedural laws, etc.

The rights of persons belonging to national minorities, established by state regulations, are most commonly exercised at lower levels of power i.e. at the level of autonomous regions and local self-government. The Constitution provides for autonomous provinces to “see to exercising human and minority rights, in accordance with the Law” (Article 183, paragraph 3 of the Constitution), and

for municipalities or cities to “see to exercising, protection and improvement of human and minority rights, as well as to public informing in the municipality” (Article 190, paragraph 3 of the Constitution). Additionally, the Constitution provides the possibility for autonomous provinces to establish additional rights of persons belonging to national minorities, in accordance with the law (Article 79, paragraph 2 of the Constitution).

Successful practice of minority policies draws on effective and efficient functioning of institutions. Professional and efficient administration, judiciary, independent bodies (such as Ombudsman’s office or Commissioner for protection of equality), municipal and local bodies have a significant impact on the quality of protection and realization of minority rights. What is characteristic for most of these “common” institutions, especially at the central level of government (such as tax administration, customs administration, real estate cadaster, public authority organizations etc.) is low sensitivity to minority rights (for example, the right to use mother tongue). Special institutions that primarily deal with minority rights are also necessary. Currently, the institutional framework for minority policies comprises Office for Human and Minority Rights, Council for National Minorities, Provincial Secretariat for Education, Administration and National Communities, local council for interethnic relations and councils for national minorities.

Office for Human and Minority Rights is the body of the Government of the Republic of Serbia that deals with matters concerning monitoring and improvement of conditions in this area. These matters were previously the concern of the Ministry for Human and Minority Rights, and later of the Administration for human and minority rights within the ministry. The change of the institutional concept did not come as a consequence of a strategic approach to harmonize the institutional framework with the requirements of minority policies, but due to adjustment of institutional structure with the balance of powers of political parties and coalition agreements. A key to successful implementation of minority policies is the establishment of long-term concept of a state authority to deal with the rights of national minorities. The best solution would be to set up a ministry that would be in charge of matters pertaining to minority policies and integrations. The area of human and minority rights and integrations is comprehensive, and placing it under a roof of one ministry should not lead to a wrong conclusion that other ministries shouldn’t be concerned with protection and realization of such rights when conducting activities from their respective competences (such as ministries in charge of education, justice and public administration, health, culture etc.).

The most relevant political body for the establishment of minority policies is the Council for National Minorities. The Council draws legal basis from the Law on Protection of Rights and Freedoms of National Minorities, in which Article 18 stipulates that “the Government shall establish the Council for National

Minorities for the purpose of preservation, promotion and protection of national, ethnic, religious, linguistic and cultural specificity of the persons belonging to national minorities and exercise of their rights”. The Law further stipulates that the Government will determine the composition and responsibilities of the Council and that representatives of national councils of national minorities will be members of the Council. The Council was established in 2004 by the Government decision and aimed to serve as a channel for communication and harmonization of interests between the Government of the Republic of Serbia and leaderships of national minorities. As an advisory body, the Council assists the Government in the preparation and implementation of strategic decisions related to minority policies. The Council is headed by the Prime minister of the Republic of Serbia and comprised of relevant Government ministers (internal affairs, justice, public administration, local self-government, education, sports, culture, and religion) and presidents of all national councils of national minorities. The Council is competent to: ratify proposals by national councils on national symbols and emblems of national minorities; review draft laws and other regulations relevant for the realization of rights of national minorities; monitor and review the status of realization of rights of national minorities in the Republic of Serbia; propose measures for the improvement of full and effective equality of persons belonging to national minorities; monitor and establish cooperation between national councils of national minorities and competent authorities of the Republic of Serbia; cooperate with competent authorities of the State Union of Serbia and Montenegro and review working conditions of national councils of national minorities etc.

During its first term, the Council undertook numerous activities, both independently and in cooperation with other institutions. Some of those activities are very significant for the realization of minority rights: decision-making on development of the criteria for the import of textbooks in minority languages and on formation of a commission for the preparation of those criteria; campaigning for higher enrolment rate of member of national minorities in the military and police academies; decision-making on establishing annual cultural events of national minorities; cooperation with the Ministry for human and minority rights in preparation of action plans for the implementation of the Strategy for Roma Integration; creating a database on national minorities in the Republic of Serbia according to matrices created for the preparation of state reports on implementation of international agreements relevant for national minorities. Additionally, in cooperation with the Secretariat for Regulation, Administration and National Minorities of the Executive Council of the AP Vojvodina, the Council realized the project “Promotion of Multiculturalism and Tolerance in Vojvodina” with the aim to curb the number of ethnically motivated incidents and rising awareness among young population about the values and advantages of life in multicultural communities; in cooperation with

the Ministry of Culture and Ministry for Human Rights and National Minorities, the Council participated in the marking of the beginning of the *Decade of Roma Inclusion*; in cooperation with OEBS, the Council organized a seminar for the representatives of national councils on the subject of Participation of national councils in legislative processes, etc.

In its second term, the Council only held the inaugural session. All representatives of national minorities, without exception, viewed this as a lack of interest on the part of the Government of Serbia for minority policies, as well as blatant violation of the law.

On the level of AP Vojvodina, the Provincial Secretariat for Education, Administration and National Communities is in charge of matters pertaining to minority rights. Within the Secretariat operates the Sector for national communities whose competences include matters related to the realization of minority rights, relations with churches and religious communities, as well as translation services – translation to and from foreign languages and languages of national minorities in official use. The work performance of the Provincial Secretariat and the Sector is deemed as good, and better realization of minority rights on the territory of Vojvodina is mostly due to a stable and efficient institutional structure in charge of these matters in Vojvodina.

Observed at the local level, the most important body for the improvement of interethnic dialogue is the Council for Interethnic Relations. Article 98 of the Law on Local Self-government (“Official Gazette of RS” no. 129/2007) prescribes the establishment of Councils for Interethnic Relations in multi-ethnic units of local self-government. These councils should concern themselves with the preservation of “national equality) on local levels, especially by providing opinions and giving proposals to city/municipality assemblies regarding decisions of local assemblies and executive authorities. Despite being introduced into the Serbian legislature in 2002, the institution of councils for interethnic relations is still far from being fully operational. There are still units of local self-government that haven’t established interethnic councils, despite being obligated by law, and in most local self-governments who have formed the council, these are mostly non operative or exist only formally.

The institutional framework of minority politics is complemented by national councils of national minorities, the body through which national minorities exercise the right to cultural autonomy. The national councils represent a national minority, decide or participate in decision-making and establish institutions and organizations in the fields of culture, education, information and official use of languages and scripts of national minorities. Although there is a consensus between majority and minority elites over a general acceptance of national councils, this concept is not without flaws.

According to the Law on National Councils, national councils are institutions through which persons belonging to national minorities have the right to

self-government in the areas of culture, education, information and official use of languages and alphabets. The first cycle of the national councils' mandate ends this year, and it is a good time to analyze the goals, challenges and problems faced by the national councils.

The latest decision of the Constitutional Court on the (un) constitutionality of certain provisions of the Law on National Councils imposed a political question of whether these institutions function as bodies of minority self-government or bodies of cultural autonomy. It is necessary to achieve major political agreement to not allow abolition of this institution or narrow its jurisdiction. To enable a national council to operate as a body of minority self-government the first necessary step would be to establish a legal and institutional framework to ensure that national councils represent the interests of the whole national community, not just interests of certain political groups or political parties. This requires a review of the current applicable rules for the election of members of national councils. Secondly, the responsibilities of national councils should be in accordance with benchmarks of minority self-governance and capacities of that institution and that of a minority community to carry out prescribed authorities.

Some of the problems identified in the practice of national councils include the following: provisions of the Law on National Councils related to the internal organization of councils are vague; non-compliance of provisions of the Law on National Councils and relevant provisions of laws on education, culture etc.; insufficient organization and limited technical and financial capacity of national councils of certain ethnic minorities, especially those less numerous; absence and disorder in terms of documentation on the work of national councils; obvious problems in achieving legally regulated procedure of election of national councils, notably entry into and deletion from the special electoral roll.

In matters of mutual cooperation and coordination between national councils, especially in matters pertaining to relations with national, provincial, and local authorities, the Law on National Councils is incomplete. National councils may independently communicate proposals and opinions to state bodies and these are obliged by law to seek opinions from national councils. However, the law allows these authorities to regulate the rules governing the procedure for obtaining opinions within their respective offices. There is an informal body named the National Coordination Council, but it is still not a legal category and therefore has no power.

Financing of the national councils and budget allocations for these purposes is regulated by a special government regulation. This matter would have to be regulated by law. In preparation of this bill a change of current practice should be considered, and instead of leaving the authority for decision-making regarding financing to the relevant ministry and introduce, for example, a special fund

that would support programs aimed at minorities and integrations. Please note that the Law on National Councils provides for the existence of such Fund. However, since no by-laws were adopted, the Fund has never been implemented in practice.

The system of financing of national councils deserves special attention. The current state in the area of revenues and expenditure of funds of national councils is as follows: national councils are neither direct nor indirect budget users, which prevents budgetary control over their work. Also, no analysis of the spending structure of national councils has been done; the inventory of property of national councils is also missing. The problem is that national councils rely solely on budget funds and these funds are generally sufficient for their institutional performance, but not for specific programs of national councils, and full performance of jurisdiction conferred by law; lack of financing (funding) criteria. Specifically, the crucial criteria for the allocation of funds in the area of official use of language, education, culture or information, is the number of existing institutions of national minorities and their number in local units of self-government where a minority language is in use. The problem is that even these criteria, which are otherwise unfavorable for smaller national minorities, excluding AP Vojvodina, are not enforced in other parts of Serbia. This situation favors the better organized and more numerous minorities over poorly organized minorities (such as Roma). Also, national minorities in Vojvodina, in terms of funding, are in a far better position compared to the national minorities in Central Serbia, which are funded only from the state budget, while the national councils of the Autonomous Province of Vojvodina are financed from two budgets: national and provincial.

### 4.3. Participants and roles

Successful integration policy depends on the involvement of various stakeholders. Among the stakeholders that affect minority and integration policy are political parties, association of employers, trade unions and non-governmental sector. Political parties can play a very significant role in promoting diversity and tolerance. It is notable that there are no public statements imbued with inter-ethnic hostility by party officials (as was previously the case). Still, actions of political parties need active approach to interculturalism, both minority and "national" political parties. Although the primary objective of national minority parties is to represent the interests of ethnic minorities, minority political parties should be involved in issues that are of general public importance. As employment represents an important segment of integration, trade unions and

employers' associations play an important role and can implement affirmative action in this field. Important stakeholders for integration policies are civil society organizations. Progress to date in the realization of minority policy in Serbia was largely a result of the non-governmental sector.

# 5. Key areas of sector policies

## 5.1. Anti-discrimination in full and effective equality

Prohibition of discrimination against persons belonging to national minorities is the basis for effective minority policies. Serbia's legal system provides an appropriate regulatory framework for the prohibition of discrimination against minorities. Prohibition of discrimination against minorities is enshrined in the Constitution, ratified international treaties, laws on national minorities, the anti-discrimination law, as well as various laws governing specific fields (such as the Labor Law, the Law on Health Protection, Law on foundations of the education system etc.). Also, the Criminal Code treats discrimination as a criminal offense (Articles 128 and 387), in addition to which the protection against discrimination can be achieved in a civil action. Court protection from discrimination on the basis of ethnicity is provided in administrative proceedings, and apart from judicial protection Serbia's legal system also provides extra judicial protection that is achieved before the commissioner for equality.

National councils also play an important role in the fight against discrimination and should identify possible cases of so-called systemic discrimination and take measures for its suppression.

Serbian legal system creates the basic conditions for the application of specific measures towards persons belonging to national minorities (Article 76 paragraph 3 of the Constitution, Article 4 of the Law on National Minorities,

Article 14 of the Law on Prohibition of Discrimination), but requires additional regulation on the subordinate level to achieve practical implementation. There is no systematic approach to the affirmative action policy, but specific measures adopted *ad hoc* through regulations in certain areas (e.g. special measures in the electoral law, organization through political parties, or measures for improving the position of Roma population).

## 5.2. Citizenship

Integration policy is based on the citizen status that is based on citizenship as the soundest relation between an individual and the State. Citizenship of the Republic of Serbia is based on the civic principle ("The Citizens of the Republic of Serbia hold citizenship of the Republic of Serbia", Article 1 of the Law on Citizenship of the Republic of Serbia). Affiliation with a national community (majority or minority) is not relevant for citizenship. The basic principle of acquiring citizenship in Serbia is the origin, according to which a child acquires the citizenship of Serbia if both parents are citizens of Serbia. In this case, it is irrelevant whether a child was born on the territory of Serbia or not. Birth on the territory of Serbia is an additional requirement for the acquisition of Serbian citizenship if one parent is a foreign citizen. The birth of a child in Serbia can be the basis for citizenship only if his/her parents are unknown or don't have citizenship or their citizenship is unknown. In the context of acquiring citizenship there are no cases of systemic discrimination against persons belonging to national minorities. In addition, Serbia does not prevent nor precludes persons belonging to national minorities to also have the citizenship of their home country, so among people belonging to national minorities there are many of them with dual citizenship.

The main problem in terms of citizenship concerns the so-called legally invisible persons who are outside the legal system. This is mostly the case with Roma population, internally displaced persons from Kosovo, although the persons belonging to Albanian minority have also pointed to similar problems.

## 5.3. Effective participation

An important segment of integration is the participation of national minorities in public life. (Self) isolation of minorities may lead to divisions in society, segregation and the creation of "parallel worlds". Without wider participation

in the society, national minorities cannot develop a sense of belonging to a wider community, which is essential cohesive element for the functioning of the state. In addition, the exclusion of minorities is grossly inconsistent with the principles of democracy that is based on the participation of all citizens. Finally, the participation of national minorities is important for the majority community and its integration in a diverse society.

### *5.3.1. Participation in affairs*

The participation of national minorities in public affairs is achieved primarily through political participation. Political participation of persons belonging to national minorities is of great importance both for the improvement of their status (the ability to influence major decisions in this area), and for democracy and the legitimacy of the political system as a whole (the more inclusive political system, the greater its legitimacy).

Participation of ethnic minorities in political life is realized primarily through elections. On the basis of their civil status, persons belonging to national minorities enjoy active and passive voting rights in the same way as the majority population, except that measures of affirmative action can be applied to alleviate their actual inequality. In this area, affirmative action is applied in terms of incentives for the establishment of political parties of national minorities, as well as the abolition of the threshold when participating in the distribution of seats. According to the Law on Political Parties, a national minority party may be founded by a thousand adult, able-bodied citizens of Serbia, while the "national" parties require ten thousand founders. The problem exists in the Law on Election of Members of Parliament, which sets the same requirements for nominating candidates' list, so that the parties of national minorities must provide ten thousand signatures for their list to be established. This provision not only excludes parties of less numerous national minorities (such as the Slovaks, Romanians, Vlachs, etc.) from the electoral race, but significantly reduces the chances of representation of large ethnic minorities (especially Albanian, Bosnian and Roma), primarily due to a large number of political parties of the national minorities. In terms of participation of parties and coalitions of national minorities in the distribution of seats, the Law on the Election of Members of Parliament abolished the electoral threshold of 5 percent (Article 8, paragraph 2), and applies the so called natural threshold. This change in the electoral law in the Republic favored the numerous and well-organized political ethnic minorities, such as Hungarians, Bosnians, Albanians. However, a natural threshold for all less numerous national minorities remains elusive due to their size or, in case of Roma population, due to their weak political organization.

Just like the “majority” political parties, the parties of national minorities contribute to the general penetration of political parties into the fabric of society. This is evident in the example of “party control” over national minority councils, as well as the example of “staffing policy based on political association” in local governments with participating minority parties and in institutions of national minorities. In addition, the political parties of national minorities often do not contribute to the dialogue within the communities themselves.

In addition to participation in political life, the integration of ethnic minorities in the wider society is achieved through their involvement in the bodies of public authority. Article 77, paragraph 2 of the Serbian Constitution states that “when taking up employment in state bodies, public services, bodies of autonomous province and local self-government units, the ethnic structure of population and appropriate representation of persons belonging to national minorities shall be taken into consideration”. A similar provision is contained in Article 21 of the Law on protection of rights and freedoms of national minorities which states that “In respect of employment in public services, including the police, attention shall be paid to the national composition of the population, appropriate representation and competence in the language spoken in the territory of the relevant body or service.

However, appropriate laws and policies that would promote the inclusion of minorities in public institutions have not been adopted. A positive step in this direction was the adoption of the Decision of the Government on measures to increase the participation of national minorities in public administration (“Official Gazette of RS” no. 40/2006), but unfortunately this act remained a “dead letter”. Resolution of the Government determined the measures to increase the participation of persons belonging to national minorities as civil servants and employees in public administration, in order to promote active involvement of persons belonging to national minorities in the work of public administration.

The Government is not taking measures to increase the representation of ethnic minorities. The reasons for this is a complete absence of monitoring of ethnic structure of employees in public authorities (which is legally impossible until special regulation on such data is adopted) and an underdeveloped legal framework and practice for the implementation of affirmative action.

### *5.3.2. Social and economic participation*

Participation of national minorities in the wider society requires their involvement in the distribution of resources and public goods. In this sense, participation in social and economic spheres involves their participation in employment, education, health care, social care, housing and the like. In a society that is facing severe economic crisis and poverty, it is generally difficult

to include the population in the distribution of economic power. Therefore, the activity in this area is largely focused on prohibition of anti-discrimination and providing conditions for minorities to participate in social and economic spheres of life. In these areas, the state does not take affirmative action for ethnic minorities, except partially for Roma population.

### *5.3.3. Participation in cultural and religious life*

Culture and religion, along with the language, are key elements that underpin national identity. Preservation of cultural and religious identity is an integral part of successful minority policy. Serbia's legal system gives minorities the right to preserve cultural heritage, including through the establishment of special cultural, artistic and scientific institutions, societies and associations. In this field the national minorities enjoy cultural autonomy and through their national councils they can maintain and improve their culture.

The practice of exercising guaranteed rights of national minorities in the field of culture is uneven, although it does basically follow the determined normative framework. In this area, national minorities living in Vojvodina are in the forefront, while cultural activities of national minorities in Central Serbia are not institutionalized and organized on such a basis.

The main activities in areas inhabited by minority ethnic groups are taking place across cultural - artistic associations, and rarely through the institutions established by local government authorities. In practice, organized work of institutions is mainly financed from the budget of the units of local self-government, while cultural - artistic associations are funded only symbolically or not at all. This method of financing mainly affects persons belonging to minority communities.

A particular problem for cultural inclusion of national minorities is the "invisibility" of minority cultures in the cultural space of the majority population. With the exception of the state of affairs in Vojvodina, cultures of national minorities are not adequately represented in cultural institutions in Central Serbia. This applies to museums, libraries, theater repertoire, art, and music events.

With regard to freedom of religion and religious pluralism, Serbia's legal system is to some extent confusing because the Serbian Constitution proclaims a strict separation of church and state and equality of all churches and religious communities, while the Act on Churches and Religious Communities follows the concept of so-called "cooperative" separation of church and state, providing different status to different churches and religious communities. In this regard, a special problem is the procedure for registration of religious communities, which puts them in a disadvantageous position. Another issue is the attitude towards the Serbian Orthodox Church as the Law establishes monopoly of this Church over the Orthodox believers in Serbia. Unprincipled attitude of

the state towards the principle of secularity yields maximum strain on relations with Bosnian and Vlach minorities. In the first case, the state intervened in the conflict within the Islamic community and allowed Islamic Community of Serbia entry into the register, and brought additional burden on the process of building trust between the Bosnians and the wider society and the state, which has also affected the relationships within the Bosnian community. Also, the problem is the attitude of the Serbian Orthodox Church to other churches, as well as the passive attitude of the state towards this issue.

For the religious involvement of persons belonging to national minorities it is very important for the state to provide equal treatment and equality before the law to all churches and religious communities, to promote religious tolerance and to refrain from interfering in interfaith relations.

## 5.4. Language

The right to use one's own language is one of the central rights enjoyed by persons belonging to national minorities and it is a right guaranteed by international and domestic instruments for protection of minorities. The right of national minorities to use their language refers to the private, public and official use of language. The private use of minority languages includes the right of persons belonging to national minorities to express themselves in private communications in their own languages. The right to public use of language refers to the use of language in a public place, outside or in the presence of other people<sup>8</sup>. Protection of the right to private and public use of the minority language is reflected in the passive behavior of the state and its abstention from interference or prevention of persons belonging to national minorities to use their language. The official use of a minority language refers to the use of this language in communication with public authorities. The scope of protection of the right to official use of language, i.e. before which state authorities and in which situations minority language can be used will depend on the state i.e. international agreements acceded and the level of protection in domestic law. The official use of languages of national minorities represents an active role of the state because only actions carried out by the state enable this form of use of a minority language.

The official use of the language of a national minority includes several different rights: the right to the use and registration of the name in the language

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<sup>8</sup> Upor. Explanatory Report on the Framework Convention for Protection of National Minorities, Article 10 Paragraph 1. Text is available at <http://conventions.coe.int/Treaty/EN/Reports/Html/157.htm>.

and script of national minorities, the right to print the company name, logos and other similar designation available to the public in this language, the right to print topographical indications in this language, the right to use minority languages and alphabets in proceedings before a court, or even to hold the entire judicial process in this language, the right to use a minority language in proceedings before administrative bodies and organizations with public authority, the right to submit requests and documents in this language, and the right to have a response from the public authorities written in this language.

There are several reasons for guaranteeing language rights to the persons belonging to national minorities. First of all, the language rights facilitate communication persons belonging to national minorities, between themselves and with the authorities. The right to use the language in communication with public authorities enables a person to exercise his/her rights before the authorities more easily. The official language and script of a national minority has an expressed symbolic dimension. The use of language is one of the primary means for persons belonging to national minorities to express and preserve their identity, both at the individual level and at the level of the entire group. For this reason language rights have wider social and political implications: in conjunction with other instruments of intercultural cohesion they have an important role for the inclusion of minorities in the wider society in a way that supports the stability of the entire community. Finally, language rights contribute to the preservation of minority languages as part of the cultural heritage, contributing to the cultural diversity of society. However, one should not overlook the fact that in societies in which intercultural communication is underdeveloped and in which ethnic communities are closed, language rights can contribute to the isolation of minority communities and the creation of parallel worlds in which the majority and minority communities do not meet.

According to the Law on Local Self-government (Article 20, paragraph 33) and the Law on Official Use of Languages and Scripts (Article 11) the introduction of languages into the official use is the responsibility of assembly units of local self-government. The statute of a City/municipality assembly governs which languages are in official use in the city / municipality. If the number of persons belonging to national minorities reaches 15 percent of the total population in the city / municipality, the assembly has to harmonize its statute with statutory provisions and introduce the language and script of the national minority into official use. So, if the threshold of 15 percent is reached, all the assembly has to do is harmonize its statute to comply with the statutory provisions and introduce a minority language and script in official use. However, the introduction of languages in official use requires necessary amendments to the statute, which is done according to the procedure that requires the support of a majority of representatives in local assemblies. In this sense, the absence of a parliamentary majority to amend the statute may block the introduction

of the language and script of a national minority in official use, creating unlawful situation for which the legal system currently does not offer a solution. This problem illustrates the persistent refusal of the local assembly in Priboj to introduce the official use of the Bosnian language. It is encouraging that meanwhile Priboj remains an isolated case and that there is no local government unit in which there is a legal obligation to introduce a minority language, which hasn't been carried out.

The realization of rights of national minorities to the official use of language in the case of Bunjevac and Vlach minorities is impeded by linguistic disputes. If the case of the Bunjevac national minority it is a dispute with the Croatian national minority about national and linguistic identity. In the case of the Vlach minority it is a dispute within the community and between two opposing concepts - one that favors the admission of the Romanian language as the language of the Vlach community and the other that holds that Vlach language should be standardized.

The quality of exercising the right to official use of languages and scripts of national minorities is not the same in all units of local self-government in Serbia, but depends on the tradition of multilingualism in the local community, the capacity of the local government to enforce regulations and the frequency of requests by national minorities to communicate with public authorities (on all three levels) in their own language. The most common problems in the exercise of this right concern the registration of the name in the register, and subsequently in other public documents (especially identity card), inconsistent printing of topographical indications and names of organizational units of national authorities and public companies, the lack of capacity for effective management of administrative and judicial proceedings in the languages of national minorities, the lack of official forms in minority languages, and weaknesses in written communication with the public authorities in this language. The realization of the right to official use of minority languages is also affected by the lack of financial resources, which particularly affects multinational cities, the under-representation of persons belonging to national minorities / speakers of minority languages in public institutions, as well as weaknesses in the education system in terms of encouraging and strengthening multilingualism.

Preservation of minority languages is essential, but not sufficient for successful minority and integration policies. The knowledge of the official language is extremely important for the integration of national minorities. In addition, it is equally important that persons belonging to the majority population speak a minority language as the language of the social environment. In this respect, the situation in Serbia is not satisfactory. National communities (both majority and minority) are closed in their language frameworks, and it is almost a rule that the older generations are multilingual younger generation monolingual.

## 5.5. Education

Education plays a significant role in the creation of identity and represents an important tool for managing diversity in multi-ethnic societies. Education policy can have a crucial importance for integration processes in the society as well as for the development of intercultural communication channels. In countries that recognize certain national minority groups, education should contribute to the conservation of these special groups and their integration into the wider society.

If one observes the legal framework of minority education in Serbia, one gets the impression that it is very extensive and that national minorities enjoy high level of rights to education. However, the main problem arises with regard to capacity of the state and national minorities to apply the rights guaranteed by the law. This is particularly noticeable on the basis of the difference in the exercise of the rights of national minorities living in Central Serbia as compared to those living in Vojvodina. The AP Vojvodina has used the instruments of provincial autonomy to adopt laws and create policies that contributed significantly to the concretization of the general legal framework and better realization of the rights of persons belonging to national minorities. We should not ignore the fact that ethnic minorities residing in Vojvodina have more experience in the use of minority rights and higher awareness of the multi-ethnicity than in Central Serbia. However, the question of the quality of minority education (and generally of the education system in Serbia) and the contents of educational process are particularly important issues. It is evident that through the educational process national minorities are closing into the boundaries of their respective ethnic groups and that intercultural communication is at a low level. The quality of teaching Serbian as non-native tongue is debatable which significantly complicates the integration of young people from ethnic minorities into the wider society. On the other hand, the educational contents used in the education of the majority population are ethnocentric, and contain very little or not at all facts about the culture of other ethnic groups (which they should by law) and, finally, the language of the environment is no longer an integral part of the curriculum in the Serbian language. Essentially, the educational process (in both Serbian and minority languages) still lacks instruments for the breakdown of ethnic prejudices and stereotypes and overcoming inter-ethnic gap, which is still dominant in social attitudes towards diversity.

## 5.6. Security and police

The Ljubljana guidelines emphasize building trust between minority populations and police and security forces as an important aspect of the integration. In this regard, it is essential that the composition of employees in these public authorities corresponds to the population in the local community. It is important that police fights against discrimination and properly prosecutes hate crimes. It is also important that communication with the local population in ethnically mixed areas is also conducted in minority languages.

In this context, in Serbia there are two most common issues regarding this - the prosecution of criminal offenses of incitement to national, religious and other hatred and intolerance, and the under-representation of ethnic minorities in the police.

Article 317 of the Criminal Code provides for criminal sanctions against incitement or instigation of national, racial or religious hatred or hostility among peoples and ethnic communities living in Serbia. A severe form of the offense exists if committed by coercion, maltreatment, compromising safety, exposure to derision of national, ethnic or religious symbols, damaging other people's property, desecration of monuments, memorials or graves (Article 317 paragraph 2). In addition, stringent punishment is provided for persons who commit this offense by abuse of position or authority, or if these acts result in riots, violence or other grave consequences for the coexistence of peoples, national minorities and ethnic groups living in Serbia (Article 317, paragraph 3).

A research conducted by the Belgrade Centre for Human Rights indicates that there is no uniform case law regarding the elements of this crime. The fundamental question that arises is whether the existence of the offense is enough to take enforcement action or the occurrence of consequences of creating and deepening national, racial or religious hatred and intolerance is necessary. The inconsistency of case law exists in regard to the position of whether for actions to be punishable they must be directed towards a group of particular race, nationality or confession, or a criminal offense exists if there is an action directed toward one person belonging to a national minority<sup>9</sup>. The study of the Belgrade Centre for Human Rights shows that penal policy is mild and that due to giving exaggerated importance to mitigating circumstances, the penalty is often relaxed. In addition, it is noticeable that incitement of national, religious and other hatred and intolerance is often not subject to criminal prosecution or the perpetrators suffer only a misdemeanor punishment<sup>10</sup>.

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9 Ibid. page 60.

10 Ibid.

Another issue that stands out in relation to building trust between local police and the minority population is under-representation of national minorities in the police authorities. In addition to the specific program for building a multiethnic police forces in the municipalities of Presevo, Bujanovac and Medvedja, which is based on an agreement between the Government of the Republic of Serbia, representatives of the Albanians of Presevo, Bujanovac and Medvedja and the OSCE Mission, there are no special programs for the inclusion of minorities in the police structure. Although this program has produced good results it is necessary to continue the ongoing policy of employment of Albanians in police structures. In this sense, integration policy must include the application of specific measures to encourage the involvement of persons belonging to national minorities in police structures. The police should also promote multilingualism and stimulate Serb police officers to learn the minority language as the language of the environment in order to achieve better communication with minority populations and thus contribute to strengthening their trust in institutions.

## 5.7. Access to justice

One of the primary functions of government is ensuring the protection of citizens' rights through an independent judiciary. The quality of the position of national minorities is significantly affected by the quality of care provided for violations of the rights proclaimed. The quality of the enjoyment of minority rights in Serbia is certainly negatively affected by inefficiency and sluggishness of the judicial system. Therefore, the strengthening of the capacity of the judiciary, its professionalism and efficiency, is a prerequisite for improving the protection of minority rights.

Moreover, for the integration of national minorities it is particularly important to facilitate their access to justice primarily through adequate representation of ethnic minorities as employees of the judicial authorities, through special training for judges, prosecutors and staff, and the elimination of all possible barriers to access to justice (e.g. linguistic, financial, geographical).

The main obstacles to full access to justice for persons belonging to national minorities are: the network of courts that does not respect geographic distribution of ethnic minorities, lack of representation of national minorities in the judicial bodies and underdeveloped capacity to conduct trials in minority languages (lack of court interpreters, scorer who can work in both languages, an insufficient number of judges who know both languages to the extent that they can conduct proceedings in both languages).

## 5.8. Media

Right to information belonging to national minorities in their own language is one of the key rights aimed at preserving the uniqueness and as such it is protected by both Serbian national laws and international acts. This right is one of the rights that are included in the cultural autonomy, and therefore many powers in this area are transferred to national council of national minorities.

No matter how favorably the statistics and content of individual programs in minority languages in Serbia appear to be, we cannot say with confidence that the situation in the media sector in minority languages is good. One of the general conclusions about the state of informing in languages of national minorities is that the situation with the media in minority languages differs between Central Serbia and Vojvodina, both in terms of the number of media and in terms of appropriate institutional arrangements.

By assuming founding rights over newspaper publishing organizations, national councils of national minorities have taken decisions which, among other things, stipulate that the owner appoints and dismisses the Executive Board and the Supervisory Board, who then appoint the director and editor in chief. This was the main issue in the debate of whether the national councils of national minorities should be given founding rights, since the consequences of this decision, against which certain minority media journalists have raised their voice, already visible. Transferring of founding rights of existing media to national minority councils led to the "appropriation" of some of these media by political parties dominant in respective national councils. An additional problem is that the government and the provincial authorities behave as if the transfer of founding rights to national councils or private owners stops their constitutional, legal and international obligation to provide informing in the language of national minorities.

The process of transferring founding rights is accompanied by privatization. The Law on Privatization of media has enabled the model of privatization which mainly led to the takeover of assets, particularly real estate (buildings) and shut down of local media, which also affected the ability to provide information in minority languages. Privatization did not lead to the achieving of objectives to improve providing information in the language of national minorities by reducing the influence of the government. Many media are privatized, their assets, particularly real estate, taken over, and the media either closed or reduced to minimum functioning. One reason for this is that these media do not have the capacity to withstand competition so they continue to depend on government subsidies and additional sources of funding (projects, grants etc.).

The quality of media in minority languages is adversely affected by the following factors: minority media audience is scarce and limited, professional media and market competition is minimal; sources of information are limited (only Beta News Agency has summarized service information and that in four minority languages; lack of translations, even of official documents and legislation, to minority languages); existing sources are often less accessible and more closed to competition compared to the majority language; the unresolved issue of funding.

The difference is also noticeable in terms of promotion of diversity on public service media, between Vojvodina and the rest of Serbia. While the standard for inclusion programs in minority languages in public services is realized through the second channel of RTV, the general assessment is that RTS has inadequate reports on the issues pertaining to national minorities, and that it is not concerned with promoting and improving the culture and traditions of national minorities.

## 5.9. Diversity of symbols and their use in the public domain

In order for the persons belonging to national minorities to have a stronger sense of belonging to a wider society and the state, it is necessary to create topographical signs and symbols that take into account multiethnic composition of population and enable identification of minority populations primarily with their local communities, and also with the state as a whole. The legal system of Serbia recognizes the right of national minorities to have in their respective environments the names of public authorities, the names of local government units, populated areas, squares and streets and other toponyms printed in the language that is in official use. These names are printed according to tradition and orthography of the minority language. Traditional names of local governments, populated areas and other geographical names in the minority language are determined by the national council of national minorities (Article 22, paragraph 1 of the Law on National Councils). National council also has the right to give proposals to the municipal/city assembly for changing the names of streets, squares, urban neighborhoods, villages, other parts of populated areas and institutions (Article 93, paragraph 1 of the Law on Local Self-Government). If such proposals are not submitted by national councils of national minorities, the assembly of the municipality or city is obliged to obtain the opinion of the national council of national minorities whose language is in official use in the

municipality (city) (Article 22, paragraph 5 of the Law on National Councils and Article 93, paragraph 2 of the Law on Local Self-Government).

The application of law to the topographical designations in minority languages is variegated, but current situation in all units of local self-government does not fully comply with standards set by the legal framework. In terms of designations of bodies and organizations exercising public authority, there are differences depending on whether they are under jurisdiction of the local self-government or the State. As a rule, local authorities and organizations that are under the administration of local government generally respect the obligation to install multilingual signs with the name of the body or organization. State authorities and public companies largely ignore provisions of the law and put up monolingual tables. They often justify this by emphasizing a centralized organizational structure and the inability to influence the production of signs. In terms of display of names of settlements, usually Cyrillic signs with Latin transcription are present. This is most common for Central Serbia, where, before the Law on National Councils was adopted, it was not clear which authority determines the traditional place names in minority languages. In Vojvodina, there are signs with traditional names in minority languages, but it is often the case that a multilingual sign is not set at each entrance to urban areas. The names of streets and squares are rarely consistently marked with multilingual signs. Reasons most often heard that offer explanation for inconsistent application of multilingual signs for designation of populated areas are large material costs that accompany the production and placement of signs, conflicting competences in terms of installation of signs to indicate populated areas, problems with damages caused to multilingual signs (crossing out, spray painting, scratching, etc.).

In addition to deficiencies regarding form (in terms of respect for the official use of minority languages), topographic designations has some other flaws in terms of content. This is especially noticeable when naming streets and squares after military leaders or rulers of the Serbian people, so sometimes historical context and the history of the local minority community are ignored. A similar problem exists in terms of coats of arms of municipalities, cities, monuments, religious symbols, etc.

# Recommendations for improvement of minority policy and integration process in the Republic of Serbia

## **Promotion of the principle of integration**

- Improving cultural institutions of national minorities and respect for ethnic and national diversity in the Republic of Serbia
- The current policy of promoting the national identity and diversity should be improved through standards, procedures and institutions to yield an integrative new state minority policy. The concept of integration as a guiding principle of minority policy of the Republic of Serbia does not mean assimilation. Organize wide-scope consultations between all stakeholders in order to establish the principles of minority politics based on integration that will be accepted by the majority community and minority communities
- Invite representatives of state authorities and representatives of national minorities and particularly the national councils of national minorities to actively contribute to creating an integrated society
- Representatives of the state government are advised to maintain neutrality in addressing open issues of national identities that cause disputes between members of different ethnic minorities (Croats and Bunjevacs, Vlachs and

Romanians, Roma-Egyptians-Ashkali). We invite representatives of minorities to resolve open issues in an atmosphere of tolerance and dialogue.

### **Legal Framework**

- During the negotiations on Serbia's membership in the EU (especially chapters 23 and 24) the existing constitutional and legislative solutions in the field of minority policy should be reviewed. In particular, it is necessary to consider including the categories of "Constitutional" and "Framework law" into the legal and constitutional framework of the Republic of Serbia. In that case, the existing law on the freedoms and rights of national minorities, with the assumption of certain provisions of the current Constitution of the Republic of Serbia could be promoted to Constitutional Law
- For the purpose of Serbia's EU integrations and the introduction of EU standards related to government decentralization and state regionalization into the Constitution of the Republic of Serbia, special attention should be paid to the reform of local government. In addition to economic, geographic, regional characteristics, ethnic characteristics must be acknowledged and prevent, to the greatest extent possible, such territorial organization that will produce further artificial fragmentation of regions traditionally inhabited by national minorities
- It is necessary to carry out a comprehensive revision of the existing legislation in the field of human and minority rights, particularly in terms of removing the conflict of jurisdiction, non-compliance procedures and terms, as well as the elimination of legal ambiguities and gaps. Provisions of the Law on Culture and Law on National Councils of National Minorities should also be revised / harmonized.
- Initiate a public hearing on possible changes to the electoral legislation when it comes to the representation of ethnic minorities in the Parliament. Analyze different models, such as guaranteed seats for minority parties
- Continuous monitoring of the implementation of the law, and training and public notification on the application should become an integral part of the practice and the legal culture of all those involved in law enforcement, as well as media and non-governmental organizations in Serbia
- Draft and adopt a new Law on Official Use of Languages and Scripts of National Minorities.
- Develop appropriate legislation in the field of information respecting the right to information belonging to national minorities in their own language with the proper safeguards in the case of private media and respect the rights of national councils of national minorities to establish media in the language of national minority.

- Any future changes in minority legislation should regulate the issue of the position of non-citizens who speak a minority language.
- Adopt appropriate regulations necessary for the consistent implementation of legislation on the collection and processing of particularly sensitive personal data (ethnicity, language and religion).
- Consider the need to change the Law on Churches and Religious Communities to be in line with the Serbian Constitution and international agreements, and change provisions on the privileged status of traditional churches
- In support of the current activity on the Draft Law on Amendments to the Law on National Councils of National Minorities, it would be necessary to organize another round of public hearings, during May and June of 2014, that would involve a wider range of stakeholders
- In connection with amendments to the electoral legislation in Serbia it was pointed to the need to abolish the discriminatory provision by which, for the election of a member of parliament, political parties of national minorities and persons belonging to national minorities should provide the same number (ten thousand) of signatures in support of the list as a party and civil initiatives of the majority community

### **Institutional framework**

- Establish institutional framework for the protection and promotion of human and minority rights and integration policy by establishing a Ministry of Human Rights, Minority Politics and Integration, which would ensure continuity in the design and implementation of the politics. Determine the jurisdiction of the Ministry to ensure that it is monitoring the harmonization of the laws and implementing policies that contribute to the creation of an integrated society
- Promote intensive inter-agency cooperation in the Government of the Republic of Serbia, which includes the cooperation between a ministry in charge of human and minority rights and integration politics with other ministries to achieve a comprehensive politics in this area
- Establish a continuous dialogue with representatives of national minorities within the existing Council for National Minorities of the Republic of Serbia. Adopt new Regulation on the Council of the Republic of Serbia for National Minorities and Integration by which regular work of the council would become mandatory in order to ensure performance of the Council's jurisdiction as defined by the Regulation
- Take into account regional specificities when defining public policies towards national minorities

- Work towards continuous improvement of civil servants on minority rights and legal regulations of the Republic of Serbia, as well as on raising the level of knowledge about the culture and language of the national minority of those employees who work carry out integrative minority policies
- Create conditions for strengthening the activities of the Permanent coordination of national minorities
- Strengthen the role and visibility of the municipal councils for interethnic relations

### **Representation of national minorities in public administration**

- Ensure greater representation of ethnic minorities in state institutions at central, provincial and local levels. In order for the ethnic composition of employees in state bodies to reflect, to the greatest extent possible, the structure of the population, it is necessary to establish an appropriate legal framework and monitoring mechanisms in this area and take systematic measures to improve the current situation.
- Implement affirmative action in employment and ensure adequate minority representation in state bodies
- Knowledge of languages of national minorities should be priority in employment

### **National councils of national minorities**

- Define more clearly the role and position of councils of national minorities in the legal system of the Republic of Serbia so as to make national councils indirect budget users
- Establish measures to reduce the politicization of national councils and reduce the influence of political parties. Ensure greater representation of persons belonging to national minorities in the National Council, through the involvement of members of civil society, religious organizations, and entrepreneurs; consider a change of the manner of election to national councils
- Consider whether the members of all national minorities have the need and capacity for self-government under the existing legal framework
- Recognize differences in the capacity of the national council and ensure the strengthening of their capacities
- Introduce appropriate mechanisms to effectively control the exercise of rights of national councils in the areas of their competence.
- Introduce additional mechanisms to support national minorities outside of AP Vojvodina

- Instead of the State Fund for National Minorities, which is provided by the Law on National Councils of National Minorities, establish the Fund for National Minorities and Integration, also within the relevant ministry. Establish a fund with the aim of providing support for projects of national councils and other organizations for activities that encourage cooperation among minorities and between minorities and the majority. Develop Fund's competences to include strengthening the capacity of national councils, joint projects of national councils, projects of national councils and other institutions, the establishment of new joint institutions of minorities and the majority

### **Census methodology**

- Consider changing the methodology of the census. Introduce bilingual forms and take into account the equitable representation of minorities in the census commissions
- State representatives are invited to use a flexible approach to the population census and use of information obtained.
- In the process of creation and implementation of minority and public policies, in addition to the data obtained from the census, public authorities should use sources of data on population (independent researches, national statistics and EUROSTAT, surveys, etc.).

### **Official use of language and script**

- Ensure full compliance with the law on the official use of languages and scripts.
- In multi-ethnic communities insist on the names of streets and squares that take into account the multi-ethnic character of the local environment.
- Provide forms in the languages of national minorities in proceedings conducted by state authorities and public services, in accordance with the law.
- Establish control over the printing of topographical indications and names of organizational units of central/national authorities and public enterprises in the languages of national minorities, in accordance with the law.

### **Education**

- Continued work on providing textbooks for teaching in minority languages
- Simplify and shorten the procedure for providing textbooks in minority languages
- Curricula should take into account national and ethnic diversity and introduce the culture and traditions of national minorities in Serbia to Serbian students

- Work on providing highly qualified teachers in schools
- Open a public debate on the introduction of bilingual education models
- Improve teaching the Serbian as non-mother tongue for minorities
- Develop methodological basis and adopt appropriate programs for the subject “Serbian as a second language”, particularly for members of ethnic minorities whose mother tongue is not a Slavic language.
- Promote language learning environment for members of the majority population
- Speed up the procedure for recognition of diplomas

### **Media**

- Promote national minorities in media with national coverage. Consider the introduction of content in the language of national minorities in the public (television) service.
- Provide support to Radio Television of Vojvodina for programs in minority languages
- Provide impartial and objective information in the languages of national minorities, regardless of ownership structure. Create a sustainable funding model for minority media
- Provide regular funding for media broadcasting or printed in the languages of national minorities, including financial support to projects of privately owned media.

### **Regional cooperation**

- Strengthen and promote regional cooperation, through the strengthening of work of bilateral commissions and ensure smooth implementation of commissions’ conclusions. Consider the establishment of bilateral commissions with the Republic of Albania.

### **The position of the Roma minority**

- Despite efforts undertaken (adoption of the Strategy for Improvement of the Status of Romain 2009 and two action plans for the period 2009 - 2014) and the progress achieved in resolving the problem of obtaining personal documents, systemic deficiencies in resolving social and educational rights of the Roma minority have been observed, such as: access to social housing, the issue of segregation in the process of education, a negative practice of forced evictions carried out by competent authorities and inadequate access to the health care system.



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