Expert Report
on the situation of minority rights in the Republic of Serbia

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1. Introduction: the mandate of the expert group, structure and content of the report

The present report presents the findings and the recommendations of an expert mission on the protection of minorities which took place between 9 and 13 July 2012 in Serbia. It involved three independent experts from EU Member States, EU staff from the Commission (DG ELARG/Serbia unit) and from the EU Delegation in Belgrade. Held as a concrete follow up to the March 2012 European Council Conclusions[1], it mainly focused on the national minorities in Serbia with a "kin-State" in the EU.

The group of experts was not **tasked** to cover the overall situation for all the national minorities settled in the country, as this has been recently done by other monitoring bodies[2] and independent assessment.[3] The objective was rather to assess the level of protection of the national minorities which have or will shortly have a "kin-State"[4] in the European Union.[5] However, while the situation of each minority is different, several elements are common to all national minorities and require, to be properly addressed, a holistic approach. Therefore, some considerations and recommendations are applicable to all national minorities living in Serbia as appropriate.

This focused aim entirely matched the group of experts' working **programme**. The group met with representatives from national administration, as well as the local government bodies in the autonomous province of Vojvodina, several National Minority Councils (*NMCs*), local Councils for

[1] Annex 3 of the March 2012 European Council Conclusions: "Respect for and protection of minorities is an important element of the EU accession criteria. As reported in its Opinion of October 2011, the Commission is of the view that, while the legal and institutional framework for respecting and protecting minorities is in place in Serbia, implementation needs to continue to be further improved. It will continue to closely monitor Serbia's efforts in this regard and will report in the 2012 Progress report which is scheduled for October 2012".

[2] Including notably the *Council of Europe* through the Advisory Committee on the Framework Convention for the Protection of National Minorities (see Second Opinion on Serbia, adopted on 19 March 2009 – ACFC/OP/II(2009)001) and through the subsequent Resolution of the Committee of Ministers (Resolution CM/ResCMN(2011)7 on the implementation of the Framework Convention for the Protection of National Minorities by Serbia, adopted on 30 March 2011 at the 1110th meeting of the Ministers' Deputies), and the *European Union*, in the Commission's Opinion on Serbia's application for membership of the European Union, 2001 (12.10.2011, COM(2011) 668 final) (see also the accompanying analytical report {COM(2011) 668}, available at http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/sr_analytical_rapport_2011_en.pdf, and the relevant parts of the Conclusions and Recommendations of the Commission's Opinions on the membership applications by Serbia, part of the Communication from the Commission to the Council and the European Parliament "Enlargement Strategy and Main Challenges 2011-2012", COM(2011)666 – thereinafter "Analytical Report").

[3] B. C. *Harzl*, Expert Report on rights of peoples belonging to national minorities in Serbia. Results of the peer-review mission organized by the EU Delegation to Serbia, 14-18 March 2011.

[4] As noted by the *OSCE High Commissioner on National Minorities* (HCNM) in his introduction to the Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations (2008), p. 3, the term "kin-States" "has been used to describe States whose majority population shares ethnic or cultural characteristics with the minority population of another State. (However) 'kin' is regarded as one of the essentially contested concepts that lacks agreed scientific or legal definition". For these reasons, the term "kin-State" is used in this report only when it has an added explanatory value or for the sake of brevity.

[5] Croatia is set to become the 28th member State of the European Union on 1 July 2013.

Interethnic Relations (*CIER*) and civic associations in various parts of Serbia. During the week three teams had a number of worthwhile meetings in the following eleven municipalities: Belgrade, Bor, Dimitrovgrad, Kladovo, Negotin, Novi Sad, Petrovac na Mlavi, Subotica, Temerin, Vršac and Zaječar.

Since the European **standards** for the protection of the rights of persons belonging to national minorities are primarily set by the 1995 Council of Europe's Framework Convention for the Protection of National Minorities (*FCNM*), this report mainly follows the structure of the Convention.

For the sake of clarity, each section of the report is composed by three **elements**: 1. The analytical part based on the legislative and factual (including political)[6] framework, with particular regard to the effective implementation of the rights of persons belonging to national minorities; 2. The findings of the mission; 3. The recommendations. In some area, points 1 and 2 are dealt with together.

2. Overall situation of minorities in the Republic of Serbia

2.1. The framework

According to the last available census data, persons belonging to national minorities make up about one sixth of the population of the Republic of Serbia.[7]

The legal framework for the protection of the rights of persons belonging to national minorities has been spectacularly developed over the past ten years and now results in a rather complex set of norms that, overall, puts the country above the average European standard in this field. While the body of relevant law involves nearly all branches of public law, from constitutional to electoral, from administrative to criminal, the essential elements of minority rights protection and enactment in Serbia are contained in four main acts:

a) the Constitution, adopted in 2006, contains a specific chapter on the rights of persons belonging to national minorities (articles 75-81) and, importantly, confer supra-legislative rank to ratified international agreements (article 194), notably including the FCNM,[8] the

[6] Reference to the political framework is to be intended as to the overall political climate with regard to minority issues, which is referred to in the report to the extent it is relevant for shaping the effective enjoyment of rights of persons belonging to national minorities. It is not to be intended as referring to the party-political contingency, even though the visit took place in the immediate aftermath of the parliamentary and presidential election (6 and 20 May 2012) and the coalition agreement for the formation of the central government between the Serbian Progressive Party (*Srpska napredna stranka*: SNS), the Socialist Party of Serbia (*Socijalistička partija Srbije*: SPS) and the United Regions of Serbia (*Ujedinjeni regioni Srbije*: URS) was reached in the very week of the experts' visit and was often mentioned by the interlocutors.

[7] According to the population census in 2002 members of national minorities make up 17.14% of the overall national population, broken down in the following groups: Albanians (61,647), Ashkali (584), Bosniaks (136,087), Bulgarians (20,497), Bunjevaks (20,497), Croats (70,602), Egyptians (814), Greeks (572), Germans (3,901), Hungarians (293,299), Jews (1,158), Macedonians (25, 847), Roma (108,193), Romanians (34,576), Ruthenians (15,905), Slovaks (59,021), Ukrainians (5,354), Vlachs (40,054). The results of the last census carried out in 2011 are not yet known at the time of drafting the present report (August 2012) and will be made available in the fall. According to all sources consulted, it is expected that overall the number of persons belonging to national minorities will increase as compared to the previous census, especially for some minority groups.

[8] The FCNM was ratified in 1998 by the National Assembly of the then Federal Republic of Yugoslavia and entered into force on 1 September 2001.

European Charter for Regional or Minority Languages (ECRML)[9] and the four bilateral agreements concluded so far with neighbouring States on the protection of minority rights, respectively with the former Yugoslav Republic of Macedonia,[10] with Croatia,[11] with Hungary[12] and with Romania; [13]

b) the 2002 Law on the Protection of the Rights and Freedoms of National Minorities (Law on National Minorities);[14]

c) the 2009 Law on National Minority Councils (NMC);[15]

d) the Law on Official Use of Languages and Scripts.[16]

Relevant provisions are included in other important laws such as, inter alia, the Law on educational system and upbringing (2009 and subsequent amendments), the Law on local self-governance (2007 and subsequent amendments), the Law on the Protector of Citizens (Ombudsman) (2005 and subsequent amendments), and many others.

Despite a very well developed legislative and institutional framework, implementation of the relevant provisions in practice remains much more limited, although with considerable regional differences between, in particular, the autonomous province of Vojvodina (which is far more advanced in this regard) and the rest of the country. Such delay in implementation has to do with a number of factors, including lack of continuity in the allocation of institutional responsibilities for national minorities,[17] insufficient capacity in parts of the administration, especially at local level, but also an overall underdeveloped sensitivity and awareness of minority issues and rights in large parts of the population. Such a situation makes it difficult to effectively implement the quite progressed legal framework and makes minority issues a topic for specialists (and sometimes misused for political reasons) with little outreach to the general population.

2.2. Fact finding

The legal framework regulating rights of persons belonging to national minorities in the Republic of Serbia is highly developed and sophisticated, relatively detailed in the legal provisions, open to international norms, quite complex and it shows a low degree of harmony and cohesion as well as a high level of institutionalization.

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[9] The ECRML was ratified by the Assembly of the then State Union of Serbia and Montenegro in 2005 and entered into force on 1 June 2006. According to the instrument of ratification deposited by Serbia, the languages covered by the Charter are Albanian, Bosnian, Bulgarian, Croatian, Hungarian, Romani, Romanian, Rusyn, Slovak, Ukraininan.

[10] Law on the Ratification of the Agreement between Serbia and Montenegro and the Republic of Macedonia on the protection of the Serbian and Montenegrin Minority in the Republic of Macedonia and the Macedonian national minority in Serbia and Montenegro, Official Gazette of the Republic of Serbia – International Treaties, No. 6/2005.

[11] Agreement between Serbia and Montenegro and the Republic of Croatia on the protection of the rights of the Serbian and Montenegrin minority in the Republic of Croatia and of the Croatian minority in Serbia and Montenegro (2004), in Official Gazette – International Treaties, No. 3/2005.

[12] Law on the Ratification of the Agreement between Serbia and Montenegro and the Republic of Hungary on the protection of the Hungarian national minority living in Serbia and Montenegro and the Serbian national minority living in Hungary, Official Gazette of the Republic of Serbia – International Treaties, No. 14/2004.

[13] Law on the Ratification of the Agreement between Federal Government of Serbia and Montenegro and the Government of Romania on the co-operation in the protection of national minorities, Official Gazette of the Republic of Serbia – International Treaties, No. 14/2004.

[14] Official Gazette of FRY No. 11 of 27 February 2002.

[15] Official Gazette of the Republic of Serbia, No. 72/2009.

[16] Official Gazette of the Republic of Serbia, No. 45/91, 101/05 and 30/2010.

[17] Advisory Committee on the Framework Convention for the Protection of National Minorities (*ACFC*), Second Opinion on Serbia, 2009, cit., para. 12.

The consequences are manifold:

a) While overall very advanced, the system sometimes results in excessive complexity and occasionally produces potential and actual conflicts of norms,[18]that are often resolved through political rather than legal means.

b) Furthermore, such a complex set of rights and institutions is eventually accessible only to experts in the field and most persons belonging to national minorities are often very little (if at all) aware of their rights provided by the constitution and the legislation. The same limited knowledge and awareness of minority rights is widespread among civil servants and also, quite remarkably, among political representatives, including those with minority background and sitting in the various NMCs. In the absence of sufficient awareness of not only minority rights in particular, but even more importantly of the overall cultural context for their development (including intercultural sensitivity, gender issues, etc.), effective implementation of these rights can hardly be expected.

c) Institutional responsibility and coordination of minority issues has been in a state of flux for quite some time: the former Agency for Human Rights was first replaced by a Ministry of Human and Minority Rights, then Ministry for Human and Minority Rights, Public Administration and Local Self-Government, within which a Directorate for Human and Minority Rights was established;[19] recently, the newly appointed Government has regrettably "downgraded" the Directorate into a mere "Office for Human and Minority Rights", with more limited powers and influence,[20] and replaced its director. As a result, responsibility for and coordination of minority issues is too much depending on political developments.[21] This reduces capacity and potential of what would otherwise be competent and dedicated staff, whose role is all the most important given the mentioned high degree of "specialization" of minority issues in Serbia.

d) The strong institutionalization of the minority rights system in Serbia, mostly due to the NMCs, produces over-politicization of national minority issues (like perhaps too many other issues in the country) and induces, in a medium-term perspective, self-isolation of national minorities and insufficient interaction among them as well as between them and the majority. While NMCs are an important channel for participation (see below), they are on the one hand increasingly monopolised by political parties and thus becoming an arena for political struggles, and on the other are themselves monopolising minority participation creating fragmentation and self-isolation of minorities and reducing the degree of interaction among different communities in society.

[18] Examples include the conflict of norms pointed out by the *Ombudsman* between Constitution and the Law on Churches and Religious Societies and the regulation on the Register of Churches and Religious Communities (Official Gazette No. 43/2006). See Recommendation of the Ombudsman, No. 16-1566/09, 31 March 2010 and Comments on specific issues in respect of the laws and regulations governing the status of national minorities, in response to the application of the International Convention on the Elimination of All Forms of Racial Discrimination (*CERD*). Ev. No. 2835, 14.02.2011. Another example is the impossibility, so far, to implement the linguistic rights of persons belonging to national minorities in the municipality of Priboj (Sandzak), despite the fact that all conditions provided by law are met.

[19] The staffing of the Directorate has not changed after the incorporation in the newly formed Ministry in March 2011. As results, about 1/3 of the staff is dealing with national minority issues and most of their time is devoted to the implementation of the Roma strategy.

[20] Within the framework of a wider restructuring of the governmental structure – which has involved also the establishment of three separated offices respectively for Kosovo, Diaspora and Religious Affairs – some key functions of the Directorate were moved to the Ministry of Justice, such as keeping the registry of National Minority Councils and organization of the elections for the councils.

[21] In this context, it does not seem a positive development that the coalition agreement of the new government installed on 24 July 2012 does not contain any reference to minority issues.

2.3. Recommendations

- **Avoid permanent shift in institutional responsibility** by establishing a stable and independent system of national coordination on minority issues with clearly defined competences and obligations that should preferably not change at each change of government. Re-consider the decision to transform the former Directorate into a "mere" Office and review the staffing of the Office considering, where appropriate, its increase in numbers, with regard to the section dealing with national minorities in particular. In hiring new staff, take into particular account the ethnic composition of the country as foreseen by the Constitution (Article 77.2).
- **Improve awareness of the presence of minorities** in the country and of their rights among the wider public and civil servants at local level. This might be achieved by developing a medium to long term strategy that includes and coordinates several sectoral measures, such as: training of civil servants and of political personnel; increase the media presence of national minorities not as a folkloric element but as integral part of society, etc. (detailed recommendations in the next sections)
- Constantly **review the legislation** in order to avoid conflicts of norms that might arise in practice and guarantee better coordination. Disseminate more broadly the contents of the legislation, in order to raise awareness in all segments of society of the rights provided for by the laws.
- Within an overall strategic assessment of the trends in Serbian national minority policy, **reconsider the role of NMCs** (see below).

3. Self-identification

3.1. The framework

The principle of self-identification with regards to belonging to a national minority, stipulated by Article 3.1 FCNM, is entrenched in Article 47 of the Constitution.[22] Article 2.1 of the Law on the Protection of Rights and Freedoms of National Minorities provides a general definition of national minorities, based on a number of objective and subjective criteria: citizenship, sufficient representation, the essential elements of group identity, identification with a group as well as a long-lasting and firm association between the group and the territory of the Serbian state. The ACFC Second Opinion on Serbia noted that the principle of self-identification is overall well respected, even though some issues arise for some groups based on the citizenship criterion.[23]

For the sake of this report, issues related to identification of some groups are to be mentioned. Among the involved communities, there is disagreement as to whether Bunyevtsi have distinct identity from the Croatians, and the Vlachs from the Romanians. Following the ACFC recommendations, the authorities have not become engaged in these issues and have allowed all groups to form their own NMC. While those who advocate that these identities are not distinct obviously criticize the authorities decision, considering it indeed to be an interference in minority identification, it must be noticed that a different approach by the authorities (such as denying the Bunyevtsi or the Vlachs the right to establish their own NMC) would have been much more problematic from the perspective of the respect of the principle of self-identification. However, it

[22] Article 47 Const.: "National affiliation may be expressed freely. No person shall be obliged to declare his national affiliation".

[23] ACFC, Second Opinion on Serbia, cit., para. 35.

must also be pointed out that the ongoing debate on distinct identities is also a reflection of the institutionalization of identities through the NMC, which in turn makes it convenient, for political and financial reasons, to establish a high number of NMCs (see below).

Furthermore, the Law on NMC provides for the establishment of a special electoral roll for persons belonging to national minorities to be entitled to vote for their respective NMC. While the law provides that registration is voluntary (article 47.2), based on the principle of free affiliation laid down in article 47 of the constitution, and that the respective information is given "special protection", including by establishing criminal sanctions if the right to be entered or removed from the roll is violated (article 49), the initial enrolment was based on a special electoral register set up by the Ministry based on the Citizen Registry maintained by the public administration, in practice presuming the ethnic affiliation.

Finally, minority political parties[24] which can operate both nationwide and at regional level, can only represent one national minority and not two or more. Besides some degree of inconsistency with political freedom and pluralism, such provision in fact contributes to the high number and little stability of political parties in Serbia.[25]

3.2. Fact finding

While legislation, including the 2008 Law on the Protection of Personal Data,[26] is overall respectful of the principle of voluntary self-identification and of the international standards on protection of sensitive data,[27] sometimes little awareness is shown in practice by several actors. Many interlocutors seemed not embarrassed in disclosing other person's national/ethnic affiliation. At the same time, quite often the objection was raised, in connection with representation of persons belonging to national minorities in the various branches of the administration (as explicitly established by Article 77.2 of the Constitution), that it would be illegitimate to enquire about the ethnic affiliation of applicants for public jobs.[28]

Again, this seems to be an issue of, on the one hand, lack of normative coordination, as the constitutional principle of adequate minority representation in the civil service is not reflected in the Law on civil servants.[29] On the other hand, this further exemplifies the widespread unawareness of minority issues and rights throughout society at large.

A complex and specific issue of self-identification regards the Vlach minority.[30] Simplifying, there are three main orientations (normally overlapping with different political affiliations) among this

[24] See Article 3 of the Law on Political Parties, Official Gazette of the Republic of Serbia, No. 36/2009.

[25] There are to date 89 political parties in Serbia, almost half of which (51) are national minority parties. Furthermore, the mentioned provision may even lead to the paradoxical situation that some political movements that had no affiliation with a minority group can still register as a minority party to circumvent the registration requirements. This was notably the case, for exaple, of the „None of the Above" party (NOPO), registred as Vlach. See the article published in *Danas*, 10 January 2012: „Founding a minority party – way to quick profit from politics".

[26] Official Gazette of the Republic of Serbia No. 97/08.

[27] These include, inter alia, Directive 95/46/EC, the Council of Europe's Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) and the Committee of Ministers' Recommendation Rec(97)18 concerning the protection of personal data collected and processed for statistical purposes. Important references are contained also in the 2010 Recommendations of the Conference of European Statisticians.

[28] See below, part 11 (Participation).

[29] Official Gazette No. 79/2005.

[30] Due to ideological disagreements within the community, even the **terminology** used is problematic. Some documents refer to this group as *Vlach/Romanian*, although most sources use the term *Vlach* only (including at the level of the EU, the Council of Europe and the OSCE, as well as the Serbian Government). This report uses the term *Vlach* as a general term too, with no intention to take a stand on the positions at stake. This choice has to do with essentially three reasons: *first*, Vlach is the overall term mostly used at international level including by the EU; *second*, irrespective

community with regard to the identification of the Vlach identity. A first subgroup identifies itself as autochthonous Vlach, emphasizing its distinctive culture and language.[31] A second and smaller camp, while still identifying as Vlach, stresses that Vlach and Romanians are the same group, that Vlach is a regional dialect of Romanian and that their mother tongue is therefore literary Romanian.[32] The members of a third group – which is probably the largest, but at the same time is not represented in the NMC nor it is reflected in statistics – identify themselves as ethnic Serbs, while proudly retaining some elements of Vlach culture (limited to some tradition, song, single words in their vocabulary). There are also those who, in Eastern Serbia, identify themselves as ethnic Romanians *tout court*.[33]

In this context, both main camps within the Vlach NMC agree on the basic claims, which are, in essence, three: 1. Increasing the presence of Vlach language and culture in the media;[34] 2. Starting minority language education in Eastern Serbia;[35] 3. More presence of the minority language in church services and no need to have an "own church".[36] Therefore, there is agreement in all subgroups that in the end what the different positions have in common is much more than what divides them, although disagreement is on matters of principle. Furthermore, interlocutors from all camps agreed that Bucharest has no real understanding of the situation of the Vlachs: while some consider that Romania as a "kin-State" has the right to interfere, all agree that the recent diplomatic escalation is not helping the Vlach cause at all and is rather severely undermining it.

It is not for this report to engage in ethno-cultural, historical, sociological or linguistic analysis of the Vlach identity.[37] What needs to be underlined, in the context of this report, is rather the fact that diverging positions, even on fundamental issues, are relatively common also in other contexts and for other groups. The worrying aspect in this case is rather that existing differences are abused for party-political purposes, often just for power games between small elites; this is the real obstacle for finding workable solutions that could accommodate both positions on a middle ground. Furthermore, the internationalization of the dispute is not conducive to its solution but rather to its

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of the different positions, everyone agrees that there is a Vlach identity, culture and language, the disagreement being "just" on the relationship between these and the Romanian identity, culture and language; *third*, the term Vlach seems more neutral and allows to refer to other terms where appropriate without creating confusion.

[31] This group is currently in the majority in the Vlach NMC (19 out of 23 representatives) and has as one of its main claims the standardization of the Vlach language (for most: in Cyrillic alphabet, although some members advocate the Latin alphabet). They are overall satisfied with the minority rights provided for by the legislation and in fact make little use of many of them.

[32] This group was in control of the Vlach NMC until the council election of 2010, when it was outvoted (now it has only 4 out of 23 members of the Vlach NMC). The claims of this group are more numerous, regarding also access to education, media and especially religious services in Romanian. This group looks at Romania as the "kin-State". At the same time, precisely because they identify themselves as Vlach, they do not want to merge with the Romanian minority and with the respective NMC.

[33] This group, however, is less relevant for this report as they are part of the Romanian minority (mostly settled in Vojvodina, with only some 4000 outside of the territory of the autonomous province) and are represented in the Romanian NMC.

[34] Although "pro-Romanian" Vlachs have as their priority the import of programmes in Romanian from Vojvodina and "pro-Vlachs" advocate in the first place more locally produced programmes (see below, part 8, Media).

[35] Although "pro-Romanian" Vlachs require education in Romanian (at least as long as standardization of Vlach is not completed and in any case switching to literary Romanian after some years, perhaps with „elementns of Vlach culture"), while "pro-Vlachs" claim as an absolute priority standardization of language and eduction in that language (see below, parts 9, Language, and 10, Education) and in the meantime accept education in Serbian only.

[36] This is however the issue where agreement is less clear. The question concerns in particular the language to be used and the target of the request: for "pro-Romanian" Vlachs, Serbia as a secular State, having obligations to guarantee freedom of religion and language rights of persons belonging to national minorities, should be obliged to intervene in order to guarantee that Romanian be allowed in church services; for "pro Vlachs" (and "pro Serb" Vlachs) this is purely a matter of canon law and the Serbian Orthodox Church cannot be forced to take any step against its will (see below, part 7, Religion).

[37] On which rich literature exist.

escalation, increasing the risk of manipulation. Finally, on a medium to long-term perspective, division of the community is destroying the community itself.[38]

3.3. Recommendations

- Follow a policy of **non-interference** with regard to the contested identities of Bunyevtsi and Vlachs.[39]
- Encourage **cooperation** between, respectively, the Vlach and the Romanian NMC on the one hand and the Bunyevtsi and the Croatian NMC on the other. Such cooperation should especially focus on less contested and practical issues of common interest and may serve as a confidence-building measure in order to ease the overall situation
- Improve the **dialogue** – on practical rather than political and ideological aspects – within the components of the Vlach community, in the awareness that solutions to the disputed issues can only be found within the community and at local level.
- Raise **awareness** about sensitivity of ethnic data collection and streamline legislation in order to guarantee full compliance with international standards in this regard.

4. Non discrimination and positive measures

4.1. The framework

In 2009, a comprehensive law on prohibition of discrimination was adopted,[40] taking into account ECRI's General Policy Recommendation No. 7 on National Legislation to Combat Racism and Racial Discrimination. The Law distinguishes between ordinary and severe forms of discrimination. Article 5 refers to direct and indirect discrimination, hate speech or harassment, as well as degrading treatment. Severe forms of discrimination in Article 13 are considered to include inciting inequality, intolerance and hatred based on ethnic, racial or religious affiliation, propagation or the exercise of discrimination by public authority and proceedings before authorities, apartheid, genocide, ethnic cleansing etc.

In addition to its general legal provisions, the Law on the Prohibition of Discrimination also includes specific provisions on the prohibition of discrimination against national minorities and their members on the grounds of nationality, ethnic origin, religious belief or language (article 24). The Law also establishes the Commissioner for the Protection of Equality and boosts the role of the Protector of Citizens (Ombudsman), established at national level in 2005 (in Vojvodina in 2002) and appointed in 2007.

[38] Even if in absolute and relative terms the number of Vlachs has steadily increased over the past 20 years. Between the census of 1991 and the census of 2002 the number of those who declared themselves as Vlachs increased by 250% (from 17.807 to 40.054), much more than any other minority in Serbia (and is likely to further increase according to the census 2011). This has to do, however, with a process of identity-awareness that started in the 1990ies and happens despite (and not because) the current confrontation.

[39] As recommended, inter alia, by the *ACFC*, First Opinion on Serbia (and Montenegro), 2003, ACFC/INF/OP/I(2004)002, paras. 26 and 123, *ACFC*, Second Opinion on Serbia, cit., para. 42 and by the Report of the *Council of Europe's Parliamentary Assembly* on "The situation of national minorities in Vojvodina and of the Romanian ethnic minority in Serbia" (Doc. 11528, 14 February 2008), paras. 84 and 86.

[40] Official Gazette No. 22/2009.

4.2. Fact finding

There is an overall increasing awareness of anti-discrimination legislation and of available remedies. For example, statistics demonstrate that from 2007 to 2010 the Ombudsman received a total of 165 complaints over the breach of rights of national minorities and while in 2007 there were only three such cases, in the following years the number of such complaints rose to respectively 15, 54 and 93. Similar data were presented by the Equality Commission (about one tenth of the complaints regard persons belonging to national minorities) and by representatives of the Ministry of Interior with regard to interethnic incidents (that are decreasing in total and for which awareness is growing).

An effort has recently been started by the authorities in order to reduce discrimination in public and private-law relations. The Directorate for Human and Minority Rights of the Ministry for Human and Minority Rights, Public Administration and Local Self-Government recently prepared a Strategy for Fighting Discrimination and an Action Plan. The Strategy, which is expected to be completed soon, anticipates the adoption and implementation of short-term and long-term measures. The strategic aim is to improve the social standing of socially vulnerable groups of the population including minorities.

Despite positive improvements in the areas of legislation and awareness raising, overall a restrictive approach to the very concept and the practical meaning of positive measures remains widespread in Serbia.[41] For example, article 76.3 of the Constitution, in establishing the possibility to adopt special measures in economic, social, cultural and political life in order to achieve full equality for persons belonging to national minorities, affirms that such measures do not constitute discrimination only "if they are aimed at eliminating extremely unfavourable living conditions which particularly affect" persons belonging to minorities. Such an approach is to be noticed in several areas, including in core minority rights such as the right to use minority rights in dealings with the administration and to be adequately represented in the civil service.[42] The situation seems to be different as regards the Hungarian minority whose representatives seem to be fully aware of the possibilities for special/positive measures as provided for in the legislation and also in a position to make active use of them.

4.3. Recommendations

- Raise awareness in all segments of the population, and notably in the civil service, that all relevant international standards[43] provide that special/positive measures may be required to promote the full and effective equality between persons belonging to national minorities and those belonging to the majority population and that such measures must not be considered discriminatory as long as they are in conformity with the proportionality principle.
- Encourage the reporting on discrimination by targeted information for persons belonging to national minorities about available rights and remedies.

[41] See also *ACFC*, Second Opinion on Serbia, cit., para. 63.

[42] See also part on participation (para. 11, below).

[43] Inter alia the FCNM (Article 4.2) the ICERD (Article 2.2, especially as interpreted by the HRC), the 1992 UN Declaration on Minorities (Article 4.1), the CSCE Copenhagen Document (para. 31), the 1991 Geneva CSCE Experts Meeting on National Minorities (part IV), the Directive 2000/43/EC (Art. 5).

5. Financial support for cultural and other activities of minorities

5.1. The framework

The fundamental role attributed to the NMCs by the legislation has made these bodies, especially after the adoption of the respective law in 2009, the key actors in implementing (but in practice also in developing) national minorities' policy, as they are vested with a wide range of advisory or participatory powers and with competences and obligations in the field of education, culture, information in the language of the national minority, as well as in the official use of language and script. It is through these institutions that the cultural life of the national minorities develops in the broadest sense. NMCs are also the key bodies with regard to financial support for cultural and other activities of minorities.

The basic statutory regime for funding is set out in Chapter VII of the Law on National Councils for National Minorities.[44] Article 114 stipulates that financial resources for the cultural, educational and information activities of the NMCs come from the State budget, the budget of the Autonomous Province of Vojvodina and the budgets of the municipalities and towns. The last component comprises other sources which the Law does not specify in detail. NMCs based in Vojvodina can receive support from including the provincial budget, as opposed to the others that can only be financed by two public sources.

The provisions of the Law are supplemented at national level by a Directive on the Process of Allocating Funds from the Budget of the Republic of Serbia for the Financing of the Work of the National Minority Councils,[45] laying down the procedural rules. In particular, the Directive introduces a scoring system from one to fifty points. Similarly, the government of the Autonomous Province of Vojvodina approved the Decision on the Manner and Criteria for Allocating Budget Resources of the Provincial Secretariat for Regulations, Administration and National Minority Councils,[46] which includes rules for financing the activities of national minorities analogous to those of the Directive.

The new system of financing has partly addressed the unsatisfactory situation highlighted by the ACFC in its Second Opinion on Serbia,[47] as it has introduced more clarity in the funding for minority related activities and financial resources earmarked for national minorities have overall increased. At the same time, however, the NMCs have become "the owner" of minority policies, as they are in practice the bodies that negotiate, raise and distribute the funds for the vast majority of minority activities. As they operate in isolation (as described below, the Republican Minority Council has remained on paper so far) and are often overly politicized, this financing system, while potentially positive, risks to increase the shortcomings of a minority policy almost exclusively based on the NMCs.

Furthermore, the National Minorities Fund, whose establishment is prescribed by Article 119 of the Law on NMCs, is not operational, as no by-law on its use has been adopted so far. Despite its limited amount, it is essential to make this fund available, also as a possible "counterbalance" to the dominant role of NMCs in financing activities of the minorities.

5.2. Fact finding

The described system of financing minority activities is heavily criticized by some NGOs representing national minorities and generally by all those who are not running the NMCs.

[44] Articles 112-119 of the Law on National Councils of National Minorities.

[45] Official Gazette No. 95/2010.

[46] Official Gazette of the Autonomous Province of Vojvodina, No. 23/2010.

[47] ACFC, Second Opinion on Serbia, cit., p. 19.

According to the mentioned directive on financing of 2010, funds are distributed among NMCs based on the following criteria: 30% of the total is divided equally among all NMC, i.e. each NMC receives 1/20 of the 30%. 35% is distributed to the NMC based on the number of persons belonging to each national minority according to census data and the remaining 35% is based on the number of minority institutions and associations the respective NMC takes care of (or claims to be entitled to take care of: As the law does not define what such claiming mechanism entails, this gives raise to a number of problematic extensions to the work of the NMCs. It was mentioned in several occasions during the meetings that NMCs have claimed the right to finance institutions and buildings such as zoos or embassies of the respective "kin-State" by declaring them of interest to a national minority).

This way, according to some sources, including representatives of the Bunjevac~~k~~ and the Croatian communities, the financing system is disproportionately favoring those NMCs that are representing the numerically largest and more organized minorities, while at the same time encouraging fragmentation as in turn it is anyway convenient to establish and run a NMC.

In addition, allegations were made as to a lack of transparency by some NMCs as to how the money is used: the alleged use of the NMC budget as de facto extra salary for political functionaries, already highlighted in some reports,[48] were reiterated during the visit. It is a positive development that money has been allocated in the State budget to induce the NMCs to have their budgets certified by independent specialists.

Furthermore, besides clarification introduced by the law on NMCs and the following administrative acts, the system of financing NMCs remains not entirely reliable.[49] Moreover, in 2009 the Ombudsman drew attention to the case of the *Bratstvo* publishers, who were engaged in activities involving the publication of printed periodicals in Bulgarian:[50] without the previous State support from the Ministry of Culture they were wound up in 2012. At the same time, according to information provided by the Directorate for Human and Minority Rights, there has been a small budget increase for NMCs in 2012.

5.3. Recommendations

- **Revise the system of financing** minority activities and consider introducing a system that is not exclusively based on provision of funds to the NMCs. In particular, consider to provide funds to the Councils for Interethnic Relations at municipal level for specific projects that may involve more than just one national minority.
- Make the **National Minorities Fund** operational.
- Ensure that the **funds** provided for by laws and regulations are transferred without delay.
- Ensure that the **funds** provided to NMCs are **used in a transparent way** and exclusively for the activities provided for by the Law. In this regard, the Government may consider drafting clear criteria for both NMCs and municipalities to be followed in reporting about the use of funds.

[48] B. C. *Harzl*, Expert Report 2011, cit., p. 8.

[49] According to information provided by representatives from several NMCs, there has been some delay in financing these organs of cultural autonomy early in 2012, although the issue seems now solved.

[50] Recommendation No. 16-549/09.

6. Tolerance, hate speech and discrimination

6.1. Framework and fact finding

Some instances of ethnically motivated incidents and of stereotypes against certain minorities including in the media persist in Serbian society, although recorded ethnically-based incidents have been decreasing in numbers and were generally minor.[51] Furthermore, despite calls from international bodies,[52] the current criminal legislation does not include a specific provision on hate speech. Although the Law on Public Information and the Law on the Prohibition of Discrimination 2009 (Article 11) contain provisions on hate speech, the wording of the existing provisions makes it difficult to prosecute such acts, and racist motivation of a crime is not yet included in the Criminal Code as an aggravating circumstance.[53]

Despite such persistent shortcomings, however, the overall climate regarding tolerance seems to be improving, especially in some parts of Serbian territory and particularly having regard to the minorities mostly dealt with in this report.[54] Several activities have been put in place especially in Vojvodina (such as the establishment of the Committee for the Prevention of Incidents),[55] and statistics confirm that the trend can overall be considered as positive. For instance, the Ministry of Interior and the Republic Public Prosecutor's Office keep statistics on criminal offences particularly regarding instigation of national, racial or religious hatred or intolerance (Article 317 criminal code) as well as racial and other discrimination (Article 387 criminal code).[56]

Legislation is in place with regard to institutions for the promotion of tolerance,[57] but its extremely limited implementation raises issues as to its effectiveness. In particular, a very important role in this regard should be performed by the local councils for inter-ethnic relations (*CIER*), provided for by Article 98 of the Law on Local Self-Government (2007).[58] According to that provision, these bodies are to be established in all ethnically mixed local self-government units, with a view to implementing, protecting and fostering equality among nationalities, thus creating sound inter-ethnic relations in municipalities and towns. These bodies should equally represent majority and minority communities, whereby the minority representatives are to be elected based on proposals made by the respective NMC. CIERs have an advisory role on proposals put forward by the local executive or assembly and can present own proposals that the local assembly must take into account. Importantly, the CIERs adopt their decisions by consensus. These bodies could indeed play a key role for improving inter-ethnic relations and for spreading a spirit of tolerance. Their practical weight, however, is far more limited than it should be considering the legislation on which they are based: first, CIERs have been set up so far only in 44 municipalities and towns, while they

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[51] As mentioned in the *Analytical Report* 2011, p. 30.

[52] *ECRI*, Fourth Report on Serbia, 2011, CRI(2011)21.

[53] As an illustration for the negative implications resulting from this omission, one might refer to the various inter-ethnic incidents in *Temerin* with regard to which almost all interlocutors welcomed the resolute action taken by the police but criticized the prosecution for having acted too leniently (acts of violence often treated as mere 'misdeamonors' resulting in mild convictions only).

[54] The situation is far more problematic especially for Roma and, to a lesser degree, for Albanians, as highlighted including by the *ACFC*'s Second Report on Serbia, cit., esp. paras. 104-111.

[55] In this context, the importance of provisions like Article 7 of the Autonomy Statute of Vojvodina has to be underlined, as they create the legal environment for the effective promotion of tolerance. According to that provision, multiculturalism, multilingualism and multiconfessionalism are social values whose retention is in the public interest of the inhabitants of the Province.

[56] According to the Ministry of Interior, in 2011 1412 inter-ethnic incidents took place. Three have been classified as criminal offences, while 127 as misdemeanors.

[57] Besides the Ministry for Human and Minority Rights, Public Administration and Local Self-Government, other bodies such as the Ombudsman and the Commissioner for Equality Protection are important institutions in this regard.

[58] Official Gazette No. 129/2007.

do not exist in 23 ethnically mixed local self-government units, even though the legal conditions of Article 98 are met; secondly, in institutional practice more or less serious shortcomings arise at the local level in the work of these bodies, as for example their composition often does not meet the criterion of equal representation of majorities and minorities, they only meet sporadically and are perceived as politically irrelevant; thirdly, the fact that the minority representatives are de facto appointed by the respective NMC puts them on a politically subordinated level as compared to the NMC, which for their part seem to have an interest in keeping the profile of CIERs very low.

As a result, the big potential of the CIERs as actors for tolerance and inter-ethnic cooperation at grassroots level remains largely unexploited. Minority policy thus remains firmly in the hands of NMCs, which, due to their very nature and to the system of financing (see above), continue to foster a segmented rather than integrated minority strategy, undermine grassroots activities and over-politicize the minority agenda. All this seems not conducive to improving tolerance on the long run.

The worrying lack of common arenas where all national minorities can discuss issues of common concern, interact institutionally (and not only politically within party structures as it now happens) with majority representatives and propose initiatives for dialogue and inter-ethnic tolerance is confirmed by the fact that the National Council for National Minorities meets only rarely if at all[59] and plays de facto no significant role. Like the CIER, however, such a body is crucial in providing a forum for contact, in this case at the highest level, being composed by ministers responsible for areas of importance for minority protection as well as chairpersons of the NMCs and chaired by the Prime Minister.[60] The lack of implementation of the fora for integration designed by the law, both as national and at local level, results in increasing and worrying segmentation and fragmentation of minority issues that may have extremely negative consequences on tolerance and societal stability in the long run.

Finally, especially in certain areas such as Eastern Serbia and with regard to certain minorities like the Vlachs, the overall positive climate in terms of tolerance seems to be the consequence of extremely low awareness of minority issues, including by many minority representatives themselves. For example, minority issues are often perceived as essentially folkloristic elements (traditional songs or costumes, and the like) and as such fully tolerated and respected, but more complex components of minority rights such as the public use of language, education, participation, are essentially ignored by many (and, as it often happens in reaction, over-emphasized by some). Therefore, while in certain parts of the country like notably Vojvodina, the very idea of tolerance is strongly present in society, in other areas it is overall practiced but mostly as a consequence of de facto marginalization of minority issues.

6.2. Recommendations

- Include **racist motivation** as an aggravating circumstance in the criminal code and amend, as appropriate, existing legislative provisions that still hinder effective prosecution of hate speech.
- Support existing activities aiming at **combatting intolerance** and continue to collect reliable data as important sources for designing effective policies.
- Support, including by financial means, the work of **local CIERs** and speed up the establishment of CIERs in the municipalities meeting the requirements where such bodies are not yet in place.

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[59] According to information received, it only convened twice in the last 5 years. See also B. C. *Harzl*, Expert Report 2011, cit., p. 8, despite the fact that according to the law it should meet at least 4 times a year.

[60] See article 18 Law on National Minorities 2002.

- Make sure that the **National Council for National Minorities** meets more regularly and more effectively (see below, participation).

7. Religion

7.1. The framework

The 2006 Law on Churches and Religious Communities[61], which was designed to implement the constitutional provisions on the secular nature of the Serbian State, on the prohibition of a State religion, on the separation between State and Churches (Article 11 const.) as well as on freedom of thought, conscience and religion (Article 43 const.), has given rise to concerns and critics since it was drafted.[62] The main areas of concern highlighted in several international reports are, on the one hand, the different legal status between the seven traditional churches and religious communities[63] and the other denominations, especially with regard to registration requirements established for the latter[64] as well as to the consequences in terms of religious education.[65] While there is no formal obligation for churches and religious communities to register, lack of registration implies exclusion from important rights such as, in particular, acquisition of legal personality, tax exemptions and the right to construct religious buildings. On the other hand, criticism regards the dominant role of the Serbian Orthodox Church, not only in practice (which might be justified in view of its numerical strength and the particular role it played in the history of the country) but also in law (for example, the fact that it is not possible to enter in the Register a religious community whose title contains the title or part of the title which represents the identity of a church, religious community or religious organization that is already entered in the Register or has submitted the request for entering the Register[66] means that as a matter of fact the Serbian Orthodox Church can prevent the establishment of and other Orthodox denomination in the country).[67]

[61] Official Gazette of the Republic of Serbia, No. 36/2006.

[62] See inter alia the Comment of the *Venice Commission* on the draft law on religious organization in Serbia, 2006, CDL-AD(2006)024; *ACFC*, Second Opinion on Serbia, cit., pp. 26-28; *ECRI* Report on Serbia (forth monitoring cycle), cit., pp. 11-13.

[63] Traditional churches are: the Serbian Orthodox Church, the Roman Catholic Church, the Slovak Evangelical Church, the Christian Reformed Church and the Evangelical Christian Church. Traditional religious communities are the Islamic community and the Jewish community.

[64] While traditional churches and religious communities are automatically registered based on historical and legal continuity, other denominations should apply for registration in the Register of Churches and Religious Communities. The application must include: the decision on the foundation of the organization with the names and signatures of at least 0.001% of adult citizens (i.e. 100 adults) residing in Serbia or foreigners with permanent residence status, the statutes or other document, fundamentals of religious or spiritual activities and information on financial sources. Moreover, the name of the religious entity must clearly express its identity and must not be similar or identical to the name of any other religious organization (Article 20 Law on Churches and Religious Communities). A second option is to recognize registration under laws previously in effect on the legal status of religious societies from 1953 to 1977, proving evidence of legal continuity.

[65] Religious education is only provided in relation to the seven "traditional religions", and such education is offered as an alternative to civic education. Other religions can also be taught, although only if the concerned groups can finance the teaching. Such discriminatory disparity of treatment is less relevant in practice than it is in theory as almost all persons belonging to the national minorities recognised in Serbia are believers of one of the seven "traditional religions". The teaching of history and culture of religions is not provided, and this is criticised by the *ACFC*, Second report on Serbia, cit., para. 145.

[66] Article 19 of the Law on Churches and Religious communities. See also similar provisions in the Law on associations (Official Gazette No. 51/09), which protects the names of associations and applies to certain matters of registration of churches and religious communities not regulated by the Law on Churches.

[67] For example, in 2008, the Montenegrin Orthodox Church was denied registration due to the fact that there would have been territorial overlapping with the Serbian Orthodox Church (*ACFC*, Second Opinion on Serbia, cit., para. 143).

In this context, some amendments to the Law on Churches and Religious Communities and to the regulation on content and keeping of the Registry of churches and religious communities[68] have been recommended by the Ombudsman, with a view to harmonising them with the Constitution,[69] and proceedings were instituted before the Constitutional Court for the assessment of constitutionality of certain articles of the Law on Churches and Religious Communities.

Furthermore, some issues are still outstanding with regard to Church property restitution, especially in Vojvodina,[70] and some instances of lack of protection of some religious groups against discrimination and even physical assaults are reported.[71]

7.2. Fact finding

For the sake of this report, the main issue related to freedom of religion and to the right of persons belonging to national minorities to establish religious institutions regards the situation in Eastern Serbia, and in particular in the Timoc region.

As far as Orthodox religion and worship is concerned, this area is under the exclusive jurisdiction of the Serbian Orthodox Church. While the liturgy of the Serbian Orthodox Church takes place in old/Church Slavonic, occasionally, mostly for non-liturgical parts of the service,[72] also minority languages (notably Vlach/Romanian)[73] are used at the discretion of the priest and if he has knowledge of that language. Several interlocutors belonging to the Vlach minority expressed their satisfaction with the current situation and do not consider themselves to be discriminated in their language and religious rights, being perfectly happy with the service carried out in old Slavonic. Other persons, however, notably those who support the view according to which Vlach culture and language is the same like Romanian ones, claim the right to receive service in Romanian language by the Romanian Orthodox Church, which is however banned from operating officially in Eastern Serbia and from erecting own religious buildings as it is not registered for acting in the region. Furthermore, the situation is exacerbated by the current tense relations between the Serbian and the Romanian governments and Orthodox Churches, whereby what would be "just" a question of religious freedom has become a serious matter that negatively affects inter-State relations.

Orthodox Church Law prohibits territorial overlapping unless the involved national Orthodox Church authorizes it, which usually happens based on reciprocity. This is the case, for example, of the agreement of mutual recognition concluded in 2006 by the Serbian Orthodox Church and the Romanian Orthodox Church, according to which the Serbian Orthodox Church recognized the Dacia Felix Diocese and allowed it to operate in part of Serbia (Vojvodina) and, reciprocally, the Romanian Orthodox Church recognized the Serbian Diocese of Timosoara (Romanian Banat/Timisoara) and allowed it to operate in the whole territory of Romania. As mentioned in the *Council of Europe's Parliamentary Assembly* Report, cit., para. 91, this agreement "does not give the Romanian Orthodox Church's diocese jurisdiction over the Timoc region, placed in the exclusive purview of the Serbian Orthodox Church. Indeed, this is the region where the members of the Romanian ethnic minority complain most of not being able to engage freely in their worship".

[68] Official Gazette No. 43/2006.

[69] See *Ombudsman* (Zaštitnik Građana, ЗАШТИТНИК ГРАЂАНА), Observations regarding the implementation of International Covenant on Civil and Political Rights, 2001, p. 12.

[70] While the Law on restitution of confiscated religious property was adopted in 2006, many interlocutors, in particular representatives of the Hungarian and the Croat communities in Subotica, complained about the unnecessarily slow process of restitution (allegedly, only 25% of all such properties have been restituted).

[71] See *European Court of Human Rights*, Milanović v. Serbia (Second Chamber, 14 December 2010), Application no. 44614/07, in which the Court ruled that Serbia failed to protect the members of the Hare Krishna organisation from Jagodina from physical assaults by their fellow citizens.

[72] But also, reportedly, for baptisms, funerals, etc.

[73] The use of the term "Vlach/Romanian" does not mean that the authors take side on the identity debate. Rather, it simply has to be intended as a shorter/simplified form of the following sentence: "notably in Vlach (which, according to some, is not different from Romanian) or in Romanian". In fact, it is reported that in some case standard Romanian is also used.

In practice, religious issues in the Timoc region are rather complex, including from a legal point of view. Some activities of the Romanian Orthodox Church are carried out legally, such as services both in privately owned premises and in two churches; some others are clearly not allowed under the current legal framework, such as the attempts to build a Romanian Orthodox Church; and finally, some are legally questionable and happening in a sort of legal limbo, such as the presence of priests from Romania carrying out some services.

Overall, it is regrettable that a solution cannot be found and even more that the case has gained an inter-State dimension. It is not for this report to interfere in Orthodox canon law, even less to suggest changes to it. However, a few aspects have to be noted.

First, the fact that most Orthodox believers belonging to the Vlach minority are content with the current situation must be taken into account, even though it must be considered, as pointed out above, that many persons belonging to minorities in Serbia are simply not aware of their rights and see minority rights just as folklore.

Secondly, the attitude of the Serbian authorities in this issue is that of formal perfect neutrality, affirming that this is purely an issue of canon law and that they are not entitled to interfere in accordance with the constitutional principle of separation between State and religion. Such policy of non-interference, however, is different as compared to the same attitude with regard to the self-identification of Vlachs (see above): in fact, non-interference in this matter even increases the latitude of decision left to the Serbian Orthodox Church, "whose influence in the recognition of other churches or religious communities seems exaggerated", leading to "an incomplete separation of Church and State".[74] It must be recalled that it is the responsibility of the State to respect international standards regarding freedom of religion, including the right to collective exercise of religious freedom: not interfering and not actively promote practical solutions may, in the long run, constitute a breach of the international commitments by the Serbian State.

Third, the current tense inter-State relations between Romania and Serbia negatively affect the resolution of the issue and seems to have a deteriorating impact including on the relations between the two Orthodox Churches, which otherwise could find easy and practical solutions to an ultimately minor issue. These could include, for example, agreeing on allowing, once in a while, Romanian services in Serbian Orthodox Church buildings in the Timoc area for those who want to attend them, or for the Serbian Orthodox Church to allow for its priests (on a voluntary basis) to receive training in Romanian language and liturgy in order to meet the demand of worshippers for services in Romanian or at least for increasing the use of Romanian in some non-liturgical elements as it allegedly already happens. In the current inter-State climate, however, such pragmatic solutions seem hardly possible for political rather than for legal reasons.

7.3. Recommendations

- Following the recommendations by the Venice Commission and by the Ombudsman, **consider to revise the Law on Churches and Religious Communities** in order to bring it more in line with the Constitution and the international treaties to which Serbia is a party. Possible amendments may regard the privileged status of the seven traditional churches and religious communities, and religious education.[75]

[74] As expressly stated by the Report of the *Council of Europe's Parliamentary Assembly* on "The situation of national minorities in Vojvodina and of the Romanian ethnic minority in Serbia", cit., para. 97.

[75] In line with the *OSCE/ODIHR* „Guidelines for review of legislation pertaining to religion or belief" and with the recommendations of the *ACFC*, Second report on Serbia, cit., para. 145.

- The Serbian Government may consider to intensify **dialogue with the Serbian Orthodox Church**, at least to encourage the use of minority languages in the services where possible and appropriate.
- Within the limits allowed by the principle of separation between State and Churches, **support and encourage dialogue** between the Serbian and the Romanian Orthodox Churches as vehicles for potentially easing also the relations between States. In this regard, not only the role of the committee for dialogue between Churches already existing within the Vlach NMC may be strengthened, but forms of cooperation could be established between the Vlach and the Romanian NMCs, with a view to elaborating pragmatic solutions to be submitted to the respective Churches, with a view to increasing the use of the minority language in services to the extent possible. These may include agreeing on allowing, once in a while, Romanian services in Serbian Orthodox Church buildings in the Timoc area, or for the Serbian Orthodox Church to allow for its priests (on a voluntary basis) to receive training in Romanian language and liturgy.

8. Media

8.1. Framework and fact finding

The number of newspapers and other publications as well as broadcasting in minority languages is overall low (especially as regards print media), although differences among the different minority languages are significant. For example, in the absence of re-broadcasting of the Romanian language programme of Radio and Television Novi Sad in North-Eastern Serbia, Vlachs living in this region do not have access to broadcast in their language.[76]

In general, little and somehow distorted attention is paid to minority issues in the media. This goes in the first place for the legislation: the two main pieces of law in the field of media (Law on Broadcasting, 2002[77] and Law on Public Information, 2003,[78] both subsequently amended) are strongly influenced by the issue of privatization of the media, which has some negative impact on the ownership of minority language media. While local authorities have kept the right to maintain ownership over minority language media (Article 96 Law on Broadcasting),[79] there seems to be little recognition by majority politicians of the point stressed by practically all minority representatives that minority media cannot, in practice, survive without public financial support.[80] At the same time, this legislation has in practice prevented the process of privatization of many outlets, with the consequence that especially local authorities and NMCs often directly fund the outlets they own, exerting disproportionate political control including on the editorial policy.

[76] *ACFC*, Second Opinion on Serbia, cit., para. 160.

[77] Official Gazette No. 42/2002, 97/2004, 76/2005, 79/2005, 85/2006, 62/2006.

[78] Official Gazette No. 43/2003, 61/2005, 64/2007.

[79] For example, the municipal assembly of the town of Dimitrovgrad, where an absolute majority of the population is made up of members of the Bulgarian national minority, established the Caribrod radio and television station for specific information and media requirements. The Caribrod RTV station broadcasts in Serbian and Bulgarian. Similar decisions have been taken by other local authorities.

[80] Fears regarding possible incompatibility of public subsidies to media broadcasting in languages of national minorities with the European rules on State-aids seem unfounded or at least exaggerated. Without going into details on EU regulation of State-aid, it must be recalled that public subsidies for minority media are the rule and that the Court of Justice of the European Union has repeatedly stated that minority protection is a legitimate aim (inter alia case Case C-274/96 *Bickel/Franz* [1998] ECR I-7637). Of course this does not mean that subsidies are always compatible with EU law, the issue depending on how subsidies are regulated and provided.

Secondly, the law provides for a minimum quota of 50% of programmes to be broadcast in Serbian (Article 73.1 Law on Broadcasting), and despite calls from international bodies,[81] the minority language broadcasters are not exempted from such requirement.

Third, and even more importantly, the scarce attention to national minorities is reflected in the contents of the programmes: in most cases, programmes in minority languages or about minorities just cover folkloric aspects, or simply re-broadcast news that have already been broadcast in Serbian. Such content makes the available media in minority languages of little interest, both for persons belonging to national minorities, and for those belonging to the majority who may be interested in learning more about languages and cultures of national minorities.[82] The issue of the contents seems more pressing and decisive than that of broadcasting time allocated to programmes in minority languages, which is a more frequent complaint put forward by minority representatives.

Fourth, the overall legal and political framework affects media issues too. The right for NMCs to establish their own media outlets and to exert decisive influence on the editorial policies of other media reporting in minority languages opened the door for strong political influence over minority media, as reported by independent experts and confirmed during the meetings.[83] Several allegedly politically driven changes in editorial posts raised critical reactions by journalists, media associations and independent media experts and it is reported to be widespread practice that NMCs place Council-selected editors in the outlets they own. Generally, segmentation of minority policy in Serbia, lack of coordination and excessive politicization of NMCs largely affect the media landscape too. So far, for example, the once existing "minority desk" in national television, as a platform for bringing minority issues together in the media landscape has not been re-established and each minority, depending on its strength and overall conditions, takes care of its own media. Intra-regional cooperation is also lacking.[84]

Fifth, the proposal to establish six more regional broadcasters (besides the one already existing in Vojvodina)[85] is currently under examination. These outlets should be, according to the proposal, financed by the State. While this may open new ways to pay more attention to minority issues and to more adequately reflect the country's diversity in the media, it also raises serious concerns regarding the financial and organizational viability (adequate equipment and resources already lack for existing media) as well as in connection with the risks of politicization of the broadcast, which is already a serious issue especially in the local media.[86]

Finally, it should be stressed that the mere possibility to receive TV and radio programmes from "kin-States" does not solve the problems of insufficient supply of locally produced programmes as only such programmes will, as a rule, deal in an appropriate manner with the relevant local and

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[81] See *ACFC*, Second Opinion on Serbia, cit., paras. 153 and 156.

[82] For example, TV Bor broadcasts TV and radio news and some cultural programme in Vlach. However, news are normally just re-broadcast local news already broadcast in Serbian and cultural programmes cover issue of interest of a very limited number of persons. Furthermore, it was reported by some source that the Vlach language used in these programmes is often poor or even incorrect.

[83] See the Monitoring Report of the Association of Independent Electronic Media (*ANEM*) from November 2011: http://www.anem.rs/en/aktivnostiAnema/monitoring/story/13013/TWENTY-EIGHTH+MONITORING+REPORT+.html

[84] For example, TV and radio programmes in Romanian produced in Vojvodina are not broadcast in Eastern Serbia, with the consequence that those who want to receive information in Romanian rather rely on programmes from Romania than on those produced in Serbia that might be of greater interest to them.

[85] As envisaged by the Government's "Strategy for the Development of the Public Information System in the Republic of Serbia until 2016" (Media Strategy), adopted in 2011.

[86] In this regard, the concerns expressed by the European Commission must be recalled. Particularly problematic, according to the Commission, is the possibility of financing the media founded by NMCs from the State budget, due to the political nature of NMCs and possible (actually: likely) influences on editorial policy of such media (see also *Analytical Report*, p. 25). The authors of this report fully share the Commission's concerns.

other domestic problems which are of vital interest to minority communities in Serbia but of no interest to broadcasters based abroad.

8.2. Recommendations

- Include in the legislation an **exemption** from the requirement of a minimum quota of 50% of programmes to be broadcast in Serbian.
- The Government and the competent media authorities should verify whether allocated **time and resources and especially contents of programmes** designed for national minorities are adequate for the needs of a modern multiethnic society.
- For **Eastern Serbia**, explore viable compromises such as, for example, allowing import of programmes in Romanian from Vojvodina and improve local production of media offered in Vlach.
- Carefully consider benefits and costs, including in terms of likely politicization, of the prospected creation of six **new regional broadcasters**.
- Ensure that the transfer of ownership of minority-language media outlets and control over appointments of editors to NMC does not negatively affect **freedom of expression and pluralism** within the community.

9. Language

9.1. Framework and fact finding

The use of minority languages in dealings with the public administration and in personal and topographic names is an area which is covered by an especially dense cluster of laws and regulations. Besides the overall constitutional regulation of language issues (Article 79 const.), the most relevant laws are the Law on the Protection of Rights and Freedoms of National Minorities (part III), the Law on Official Use of Language and Script,[87] the Law on National Councils of National Minorities, the Law on Local Self-Government, other national laws[88] as well as the regulations of the autonomous province of Vojvodina, including its autonomy statute,[89] the Law on Establishing the Competences of the Autonomous Province of Vojvodina[90] and the Provincial Assembly Decision on More Detailed Regulation of Specified Issues of Official Use of Languages and Scripts of National Minorities in the Territory of the Autonomous Province of Vojvodina.[91] Moreover, also municipal statutes regulating the official use of minority languages and script on the territory of a municipality or part thereof, as well as the laws incorporating the bilateral agreements (with the former Yugoslav Republic of Macedonia, Hungary and Romania), are an integral part of the complex legal regime on the use of minority languages.

[87] Official Gazette No. 30/2010.

[88] Including, for instance, the Law on Family (Official Gazette No. 18/2005), which provides for the right of parents to have their child's name entered in the register of births also in the language and alphabet of one of them.

[89] See in particular Article 26 of the Statute of Autonomous Province of Vojvodina.

[90] Official Gazette of the Republic of Serbia, No. 99/2009.

[91] Official Gazette of the Autonomous Province of Vojvodina, Nos. 8/2003, 09/2003, 18/2009.

The complexity[92] and sometimes contradictoriness[93] of such a system, combined with the lack of adequate knowledge of its contents by most part of the administration (especially at local level) and with the overall scarce awareness of the very presence of minorities in the mainstream Serbian society, is one of the reasons why such a fairly well developed legal system faces serious problems in its practical implementation. Furthermore, the linguistic rights provided for by the legislation seem far too ambitious if compared to the reality on the ground: with the partial exception of Vojvodina,[94] very few civil servants are able to communicate in minority languages, often - even if they are - they are not aware of their obligations in this respect, and, above all, citizens make use of the opportunities provided for by the laws only in extremely rare cases, being anyway fluent in Serbian, not even knowing the administrative terminology in minority languages and simply not being used to the idea that in some circumstances minority languages can be used in official dealings with the administration.

The use of minority languages in court proceedings, while clearly provided for in the legislation, is extremely rare and is reported to sporadically happen only in Vojvodina.[95] This is due to various reasons, including, inter alia, the fact that in several areas (such as Eastern Serbia) persons belonging to national minorities do not meet the required threshold, the lack of qualified staff (from judges to lawyers to interpreters) and the absence of consistent legal terminology in minority languages.

Also the right to use one's name and surname (patronym) is regulated by a number of laws and other acts. Article 47 of the Constitution stipulates that nationality may be expressed freely, and no person shall be obliged to declare his or her nationality. Subsequently, Article 9 of the Law on the Protection of the Rights and Freedoms of National Minorities provides that persons belonging to national minorities have the right to register their names in all public documents in the language and script of the national minority he/she belongs to,[96] in addition to the Serbian spelling and script.[97] The Law on Civil Registers[98] further specifies (Article 17.1) that a personal name of a child, parent, spouse or deceased shall be entered into the civil registers in the Serbian language in Cyrillic, and members of national minorities are entitled to have their personal names entered according to the language and script of the national minority, which does not exclude a parallel entry of the personal name in the Serbian language in Cyrillic. Furthermore, according to the Instruction on Keeping of

[92] Quite often the same issue is regulated by different provisions. One may think, for example, of Article 11.5 of the Law on the Protection of the Rights and Freedoms of National Minorities, which governs the names of administrative offices, local self-governing units, towns and municipalities, squares and streets and other topographical indications, and of Article 19 of the Law on the Official Use of Language and Script, which covers exactly the same topic.

[93] For instance, Article 11.1 of the Law on the Protection of Rights and Freedoms of National Minorities refers to „equal official use" of minority languages, whereas Article 1 of the Law on Official Use of Language and Script provides for „parallel official use". This may give rise to diverging interpretations.

[94] It should be noted, however, that, according to the representatives of the Croat and Hungarian minorities, even in municipalities like Subotica, there are considerable problems concerning the implementation in practice of the various linguistic rights accorded to persons belonging to national minorities. These representatives pointed, inter alia, to the negative implications resulting from the fact that, for some time, only monolingual administrative forms, produced for the whole of Serbia, where electronically available; however, this situation seems to have changed again, at least in some municipalities such as Subotica, where multi-lingual administrative forms are again available.

[95] Representatives of the Hungarian minority pointed to the fact that, as court documents always have to be issued in Serbian, their (additional) issuance in a minority language such as Hungarian only increases the work-load of the officials and judges concerned as such additional work is not taken into consideration when evaluating their work done.

[96] It is reported that sometimes this right is denied in practice by officials in municipalities where minority languages are not in official use. The *ACFC* has noted, however, that Article 11.1 FCNM "applies to all persons belonging to a national minority irrespective of his or her place of residence and of the status of the minority languages in that area" (Second Opinion on Serbia, cit., para. 176).

[97] Article 9.2 Law on the Protection of the Rights and Freedoms of National Minorities.

[98] Official Gazette No. 20/09.

Civil Registers and on Civil Registers Forms,[99] a personal name of a child, parent, spouse or deceased member of a national minority shall be entered into the civil register in the language and alphabet of the relevant national minority after it has been entered in the Serbian language in Cyrillic, under it, in the same font and size (item 15a).[100] Some problems arise with regard to the official registration of the feminine form of the surname in Bulgarian, Czech, Macedonian and Slovak: the feminine form of the surname in these languages includes a suffix and if a wife adopts her husband's surname then her surname has the feminine form, which sometimes causes practical difficulties for registry entries.

As to place names and topographic signposting in languages of national minorities, the Law on National Councils for National Minorities (Article 22) empowers NMCs both to determine traditional names and other geographical names in the national minority language and to propose changes in the names of streets, squares, city blocks, hamlets and other parts of a municipality.[101] The fulfillment of this duty is in the responsibility of local authorities and practical implementation varies a great deal from place to place.[102]

Like for any other aspect of minority rights, also and even more in the field of language rights, the normative and factual situation is extremely asymmetrical. In Vojvodina the value of multilingualism is legally recognized[103] and widespread in society:[104] Serbian is used (both in Cyrillic and Latin script) throughout the territory, alongside with Croatian, Hungarian, Romanian, Ruthenian and Slovak.[105] Some other areas are becoming more attentive to this issue, such as Southern Serbia (Albanian language) and Sandžak (Bosniak), whereas especially in the areas inhabited by Vlachs in Eastern Serbia the provisions on the official use of minority languages are largely unimplemented. This might depend on a number of factors: for example, the fact that Vlach is not in official use in any municipality[106] has certainly to do with the lack of a standardized

[99] Official Gazette No. 109/2009, 4/2010 – corrigendum, 10/2010 and 25/2011.

100 Also, under item 97a of the Instruction, if the personal name of a child, parent, spouse or deceased member of a national minority is entered in the civil register in the language and alphabet of the relevant national minority, the registry certificate shall have the personal name in the language and alphabet of the relevant member of the national minority entered after the proper name in the Serbian language in Cyrillic, under it, in the same font and size. As for identity cards, records are made in the language of the holder, i.e. the member of the national minority, and only with regard to own personal data, i.e. first name and surname, while other details are exclusively given in Serbian and in Cyrillic script. The bilingual nature of personal documents is thus limited to details expressing the personal identity of the member of the national minority.

[101] Analogous provisions can be found in Article 6.1 of the Provincial Assembly Decision on More Detailed Regulation of Specified Issues of Official Use of Languages and Scripts of National Minorities in the Territory of the Autonomous Province of Vojvodina. The NMCs have the right to propose changes to the names of streets, squares and districts, but they are not authorized to propose changes to the names of towns, which is a decision in the hands of the National Assembly. A procedure is pending regarding the change of the name of the town of Dimitrovgrad, whose local authorities have proposed to return to the original town name of Caribrod. The final decision lies with the National Assembly.

[102] While in most cases this does not create major problems, occasionally tensions arise due to controversial decisions of some local authorities, as was recently the case in Bujanovac when attempts were made to rename streets after some ethnic Albanian insurgents who fought in the 2001 Presevo conflict.

[103] Article 7 Autonomy Statute.

[104] Going beyond the nationwide legal requirement providing a threshold of 15% of the municipality's population for the official use of a minority languages, it is provided that if in a settlement or part of town persons belonging to national minorities constitute at least 25% of that part's population, the minority language can be in official use in that part of the municipality irrespective of the total proportion at municipal level.

[105] Minority languages are in official use in 39 out of 45 municipalities in Vojvodina. Hungarian is used officially in 27 municipalities, Slovak in 11, Romanian in eight and Ruthenian in 6. Croatian is used in the town of Subotica, and Czech in the municipality of Bela Cerkva.

[106] Even though the minimum threshold requirement is met at least in Bor, where Vlachs make up 25,1% of the population.

language so far (which largely depends on political and ideological disagreements concerning the very nature of the Vlach identity[107]), but also with the limited interest for and awareness of multilingualism expressed by both majority and minority representatives in the affected area.

It must be noted that the issue of standardization of Vlach, while to be essentially decided by the concerned minority without undue interference by authorities, is in practice impairing the exercise of all related rights to use the minority language including in dealings with administration, in the media, in education. The very same assessment applies as concerns Bunjevak since the process of its standardization which began in 2008 has not yet been finalized. It should be noted that – like for Vlach – there are fundamentally different opinions as to whether Bunjevak constitutes a language distinct from Croatian or whether it is only a regional dialect of that language.

9.2. Recommendations

- Improve the awareness of **linguistic rights** of persons belonging to national minorities especially in the parts of the territory where such awareness is more lacking, notably in Eastern Serbia. This could be done, for example, by promoting a more visible presence of persons belonging to national minorities in the civil service in the affected areas;[108] by making information about the linguistic rights available and visible especially in the public spaces; by informing of the right to obtain certain documents and certificates in minority languages too; by translating documents of general and symbolic relevance such as the municipal charters in minority languages (including where municipalities are not officially multilingual).
- Carry out a thorough **review of relevant legislation** and its implementation, with a view to considering better harmonization among the provisions and to ensuring a more consistent implementation throughout the territory.
- Ensure that the right to use **personal names** in minority languages is not unduly restricted by territorial limitations.
- Respect that the ongoing issue of **standardization of the Vlach language** is to be essentially decided by the concerned minority. However, as this is in practice endangering the exercise of language rights altogether for this minority, authorities should stand ready to offer support for completing the process of standardization and putting it into place if the request is put forward by representatives of the Vlach minority. In particular, be ready to facilitate (including with the help of local and international organizations) a neutral and unbiased environment for reaching an agreement.
- Increase the factual possibilities to enjoy the right to use one's **language before the courts**, including by introducing incentives for judges and other personnel of the judiciary to conduct proceedings and issue documents in minority languages.

[107] See above, self-identification. Attempts and proposals for language standardization are ongoing, but they do not seem to have any realistic prospect of succeeding as long as they are trapped in the identity dilemma. In such a situation, it seems difficult for the Serbian authorities to take a stand on that issue (including, for example, by supporting the efforts to standardise the language), even though in a long-term perspective lack of agreement on this issue will jeopardize the very existence of the language.

[108] See also below, part 11 (Participation).

10. Education

10.1. The framework

The right to education in minority languages is laid down in Article 79 of the Constitution and is referred to in several pieces of legislation, such as the Law on the System of Education and Upbringing[109], the Law on Preschool Education,[110] the Law on Primary Schools,[111] the Law on Secondary Schools,[112] the Law on Textbooks and other Teaching Materials[113] and others. Article 9 of the Law on the System of Education and Upbringing prescribes that pupils or students belonging to a national minority are taught in their mother tongue[114] and Article 5 of the Law on Primary Schools sets a threshold of 15 applications in order for a minority language education programme to be started, i.e. tuition of some non-linguistic subjects is performed through the child's second or third language. The threshold can be derogated (i.e. a minority language education programme can be started with less than 15 children) with the agreement of the Ministry of Education. In absence of the minimum number of applications (or of an explicit derogation), the educational programme takes place entirely in Serbian, while children belonging to a national minority are taught at least elements of the national culture.

While the rights provided for in the field of education are fully in compliance with international minority rights standards, the practical degree of implementation varies considerably in the various parts of the country, depending on the situation of each national minority,[115] on the availability of qualified teachers and of textbooks,[116] and other variables. These also include the latitude practically left to educational institutions to regulate the organization of studies in minority languages,[117] as well as the role performed by the concerned municipality or NMC.

[109] Official Gazette Nos. 72/2009, 52/2011.

[110] Official Gazette No. 18/2010.

[111] Official Gazette Nos. 50/1992, 53/1993, 67/1993, 48/1994, 66/1994, 22/2002, 62/2003, 64/2003, 101/2005, 72/2009.

[112] Official Gazette Nos. 50/1992, 53/1993, 67/1993, 48/1994, 24/1996, 23/2002, 25/2002, 62/2003, 64/2003, 101/2005.

[113] Official Gazette No. 72/2009.

[114] See Article 13 of the Law on Protection of Rights and Freedoms of National Minorities.

[115] For example, children belonging to the Romanian minority taught in Romanian are 1401 pupils at primary schools and 118 pupils at one mixed school, but Serbian is taught as a mandatory subject. A bilingual programme has 106 children in four nursery schools. 244 pupils at nine primary schools take part in an education programme in Serbian plus 28 students at two grammar schools. As for the Bulgarian national minority children living in Bosilegrad, Dimitrovgrad and Pančevo, listed under the programme in third place, with tuition performed in Serbian with teaching Bulgarian language with elements of culture as a subject, 1346 children are educated at three primary schools, 490 children at two grammar schools and 161 students at two vocational schools. The right to an education in the mother tongue is exercised at two primary schools by 46 children, at one grammar school by 25 students and at one special school of tourism by 16 students. Pre-school education is organized on a bilingual basis (in Bulgarian and Serbian) for 330 children. Slovak minority children go to schools in 13 municipalities in the province of Vojvodina. An educational programme in Slovak is offered at eight nursery schools for 785 children, at 17 primary schools for 3,178 pupils and at two grammar schools for 344 students. No children (or parents) have selected a bilingual education. Tuition in Serbian together with the subject of Slovak with elements of national culture is given at 38 primary schools for 620 pupils, as well as at two grammar schools for 34 pupils and two vocational schools for 97 students.

[116] These are often imported from the ‚kin-State' with the approval of the Ministry of Education, but are often not adapted to the school curriculum in Serbia (see further *ACFC*, Second Opinion on Serbia, cit., paras. 194 and 196).

[117] *ACFC*, Second Opinion on Serbia, cit., para. 222.

10.2. Fact finding

The quite developed system provided for by the legislation faces difficulties in implementation, especially due to the lack of qualified teachers in minority languages and the absence of textbooks.[118]

The factual asymmetry allowed by the system is especially relevant in the case of the Vlach community. The ongoing debate surrounding the Vlach identity and the consequent lack of a standardized language have so far prevented that Vlach be taught at schools in Eastern Serbia. The positions are polarized between those who advocate that Vlach be a regional dialect of Romanian and thus ask for education to be provided in Romanian with elements of the Vlach culture,[119] and those who claim that education should be in Vlach with its own standardized alphabet. Paradoxically, however, it seems that all agree that the first priority should be to start education in minority language in the region and proposals of different kind have been put forward over the years.[120]

In this context, it must be noted that the pressure exerted by the Romanian government, contesting the existence of an own Vlach language and culture, asking the Serbian authorities to deny Vlach identity and pushing for lowering the threshold in order to allow those pupils in Eastern Serbia who want education in Romanian education to receive it are not conducive to a solution of the problem. While Serbian authorities are obliged, based on their international commitments, to make information available and to spread knowledge about the rights provided for by the legislation (including about the right to set up educational programmes in Romanian if there is sufficient demand) and must not allow the Vlach NMC to prevent that (as in practice happens), they cannot be asked to actively campaign to encourage pupils to apply for this type of education.

Overall, the issue could be more easily resolved at local level without interference from abroad and avoiding the current over-politicization by the respective NMCs and sometimes even by the municipalities. It must be recalled that the only practical consequence of such an ideological (and largely also party-political) confrontation is that no education is provided in either Vlach or standard Romanian in Eastern Serbia: the language is thus inevitably disappearing, confined to a limited private use. All interlocutors, including the "pro-Romanian" ones seemed to agree with the fact that the current unfortunate situation is largely imputable to the behavior of the Romanian authorities that eventually undermines rather than promotes closer links between Vlachs and Romania.

Positive inter-State cooperation could be used for improving the status of the language rather than undermining it. Romania could play a positive role by supporting, for example, independent research on Vlach language and culture. In this context, positive lessons might be learned from closely studying the ways and means of support to Slovak language education provided by Slovakia and highly appreciated by the representatives of the Slovak minority.

With regard to the Hungarian national minority, the overall situation has been portrayed as satisfactory although there are complaints about an increase of cases in which the establishment of Hungarian language classes with only few pupils has been problematic. While Hungarian pupils

[118] These are sometimes translated into minority languages, sometimes imported from "kin-States" (with related problems of non-compatibility with the Serbian curriculum) and sometimes creative ways are found, such as using Serbian books translating them orally in class. Overall, 329 textbooks are reported to exist in languages of national minorities.

[119] Allegedly, in some schools this request has been supported by a number of pupils/parents exceeding the required threshold of 15 students.

[120] For example, one of these was to teach the children "so called Vlach" for the first years in schools, in order to familiarize pupils with the language locally spoken, and subsequently shift to the so called "literary language" (or modern/standard Romanian) to provide broader opportunities as offered by a more widely spoken language.

leaving school are reportedly all fluent in Hungarian, a considerable number of them does not sufficiently master the Serbian language. The Hungarian NMC has flagged out this situation and has asked support for improving teaching of Serbian.

In view of the limited linguistic differences between the Croatian and the Serbian languages, representatives of the Croatian minority identified as their main problem the persisting lack of textbooks adequately meeting the specific needs of the Croatian minority, including the (allegedly) non-objective way this minority is presented is history textbooks.

10.3. Recommendations

- Continue efforts to produce quality **textbooks** for minority language education and to tackle the shortage of qualified teachers, including, as appropriate, through bilateral cooperation with some ”kin-States”.
- Make sure that **information** is made available with regard to the right to set up educational programmes in minority languages, including regarding applicable requirements.
- Establish, also with Romanian and EU support, provision of **linguistic expertise** in order to support development (and, where appropriate, standardization) of the Vlach language on a scientific and non-ideological base.
- As to **minority language education for Vlachs**, encourage practical solutions, including at local and school level, in the best interest of the concerned minority, avoiding over-politicization of the issue by the involved NMCs.
- Support the requests for **additional Serbian language teaching** upon request, in order to make sure that all persons belonging to national minorities acquire a proper knowledge of the State language.[121]

11. Participation

11.1. The framework

The legal framework for minority participation in Serbia is well developed, especially with regard to participation in public life and to representation in decision-making bodies.[122] The establishment of a minority political party is subject to less stringent conditions as compared to mainstream parties[123] and minority parties are now exempted from the 5% threshold clause.[124] They are allowed

[121] See also *HCNM*, The Hague Recommendations regarding the Education Rights of National Minorities (1996), para. 1.

[122] Much more complex is the issue of socio-economic participation. In this regard, efforts are made to promote the economic development of under-developed areas, where often minorities live in substantial numbers (e.g. Southern Serbia). Complaints have been made about the socio-economic decline of Eastern Serbia, where especially the Vlach and the Bulgarian minorities are settled, due to the crisis of heavy industry and mining, causing consistent migration from the involved territories negatively affecting also the situation of the minorities concerned (brain drain etc.). The situation of the Roma is not analyzed by this Report: it must be noted, however, that their social and economic exclusion still raises profound concern (as highlighted inter alia by the *Commission's Analytical Report* 2011, pp. 31-32) despite the efforts put in place by the Serbian authorities to improve their situation.

[123] Under Article 9 of the Law on Political Parties (Official Gazette No. 36/09), the establishment of a minority political party requires at least 1,000 signatures of adult citizens with legal capacity, while for mainstream parties the requirement is of 10,000 citizens. At present, 51 political parties representing national minorities are registered (out of 89 in total, see above).

to represent the interests of only one national minority. At local level, national minorities are entitled to proportional representation in assembles of autonomous provinces and municipalities with an ethnically mixed population[125] and in these municipalities ballot papers for the local elections are printed also in minority languages.[126]

The Constitution requires state bodies, public services, provincial and local governments to take the ethnic structure of the population into consideration and to pursue "appropriate representation" of members of national minorities in these structures (Article 77.2). While action has been taken especially at central and provincial level to increase such a representation,[127] the degree to which this constitutional goal is achieved greatly varies depending on the area and of each national minority.[128]

Decentralization is an ongoing process in Serbia, at provincial (Vojvodina), regional[129] and local level and sub-state authorities play a key role in the development and implementation of minority rights.[130] In particular, with regard to participation, the Law on Local Self-Government provides for the establishment of Councils for Interethnic Relations (CIER) in municipalities with mixed population.[131] The CIERs have the important role of promoting equality between persons belonging to national minorities and those belonging to the majority and thus represent both. They give non-binding opinions to the municipal assembly on proposals that are of interest for national minorities or affect interethnic relations. In order to ensure the flexibility necessary to adapt to the circumstances of each municipality, municipal authorities have a margin of appreciation regarding the composition, scope of activities and working procedures of the CIERs.[132] Unfortunately, however, this flexibility has resulted in a substantial limitation of the role of the CIERs: many ethnically mixed municipalities have not established the committee at all, selection of members has often been problematic, minority representatives are appointed or politically controlled by the respective NMC, CIERs are underfunded, and as a matter of fact the few opinions expressed are of little relevance[133] and overall the CIERs are not contributing to the extent they should to interethnic relations at grassroots level.

Participation is especially developed with regard to cultural autonomy and institutional representation of minorities. The key actors in this regard are the National Minority Councils, which are, according to the Constitution, elected institutions for minority self-governance, vested

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[124] Article 81 of the 2004 Law on Election of Representatives.

[125] Article 180.3 Constitution.

[126] Article 28.7 Law on Local Elections.

[127] For further elaboration see *ACFC*, Second Opinion on Serbia, cit., para. 236. The same opinion (para. 62) recalls the important ruling of the Constitutional Court, back in 2003, on the decision of the municipality of Stara Pazova to give priority to candidates belonging to national minorities meeting the job requirements until adequate proportion is reached. The Court found that such a measure is not incompatible with the principle of equality including on access to jobs and functions (Article 35.2 Constitution).

[128] While in Vojvodina representation is overall fair (and more information is provided as to the ethnic structure of civil service, including police forces and the judiciary), in other areas of the country, including in Eastern Serbia, not only minorities are under-represented in the civil service, but data are largely not available.

[129] Law on Regional Development of the Republic of Serbia, Official Gazette No. 51/2009 and 30/2010.

[130] An example of the still prevailing very negative attitude towards the potential of decentralization in Serbia is the recent (July 2012) ruling of the Constitutional Court which stroke down legislation of Vojvodina on several important issues, including on the establishment of a provincial representation office in Brussels.

[131] Municipalities with mixed population are those in which one national minority accounts for more than 5% or all minorities altogether represent at least 10% of the total population of the municipality (Article 63 Law on Local Self-Government).

[132] *ACFC*, Second Opinion on Serbia, cit., para. 253.

[133] There is, for example, no legal obligation for the NMCs to respond to requests (including to formal ones) put forward by CIERs.

with significant powers in the fields of culture, education, information and official use of language and scripts (Article 75.3). Especially after the adoption of the Law on NMCs in 2009, these bodies have become the main players of minority policy in Serbia, as they have extensive competences and manage nearly all funds earmarked for minority cultures and activities.[134] The elections for NMCs according to the new law took place in 2010: nineteen national minorities elected their respective councils and all NMCs are now operational, except the Bosniak one.[135] It must be recalled that such a strong cultural autonomy regime based on the NMCs and of independent development of each national minority can only effectively work and develop its potential if it is counter-balanced by other fora promoting integration and cooperation both among national minorities and between them and the majority. The Serbian system does provide for such balances: these are essentially the National Council of National Minorities, bringing together all NMCs and the national government, and the Councils for Interethnic Relations (CIERs) at municipal level. As mentioned above,[136] however, these two institutional counterweights to the NMCs are de facto irrelevant and in practice torpedoed by the NMCs. The worrying consequence is that Serbian minority policy is almost entirely in the hands of NMCs, which pursue the interests of individual minorities and are in practice controlled by political parties.

11.2. Fact finding

While very well developed in terms of legislation, participation of national minorities is quite unbalanced in practice. The NMCs – per se a positive example of strong cultural autonomy for national minorities – have acquired a weight that is disproportionate in relation to the factual absence of institutional counterweights due to the irrelevance of both the National Council of National Minorities and of the CIERs at municipal level, despite their potentially important role accorded by the legislation.[137] In the long run, if minority policy continues to be carried out by each minority independently through its own NMC, concerns will arise as to the cohesiveness of Serbian society and social integration will be undermined.

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The fact that NMCs are elected gives them political weight. However, it also increases the risk of these important cultural autonomy institutions be steered and dominated by (often national) political parties, perpetuating the Yugoslav approach to politicizing ethnic identities and abusing the institutions for political patronage and for resources-capture purposes. Political domination by political parties has several negative consequences, including their control by political majorities completely marginalizing the losers of NMC elections: this way, minority institutions, that should by nature be especially sensitive to minority rights and positions, end up working based on a purely majoritarian logic. In some case, NMCs can also be strengthened and "used" by the respective kin-State as a vehicle for influence in Serbian politics.

[134] See also above, point 5 (Financial support).

[135] After the 2010 elections for National Minority Councils, the Bosniak NMC failed to be constituted under Article 137.3 of the Law on NMC. Therefore, the NMC elected in 2003 has assumed the function of the Bosniak NMC pending the election and constitution of the new Council. The activity of this NMC is regularly funded by the State.

[136] See also above, para. 6 (Tolerance).

[137] As one out of many possible examples, representatives of the CIER of Bor emphasized the difference in terms of role and effectiveness of the CIER between before and after the election of NMCs according to the new law. Previously, the Bor CIER succeeded to establish a programme in Vlach in the local radio station and to include Roma in its activities despite the fact that Roma did not meet the threshold of 1% of the municipal population to be represented in the CIER. After the election of the new Vlach NMC, it was reported that the CIER is doing very little. The reason lies in the fact that the Vlach members of the Bor CIER are still those appointed by the previous Vlach NMC (which was dominated by, simplifying, the „pro Romanian" faction) and since the political/ideological orientation of the majority of the new Vlach NMC changed after elections there are no more contacts between the Bor CIER and the Vlach NMC.

The Ombudsman, the Commissioner for the Protection of Personal Data and the Commissioner for Equality Protection all made recommendations aimed at improving (if not the structural role of the NMCs at least) the electoral framework for the NMC. Such recommendations, however, have not been followed up.

As to the constitutional duty to aim at an "appropriate representation" of persons belonging to national minorities in the administration (Article 77.2), there appears to be some contradiction with the prohibition to ask for ethnic affiliation when entering the public service provided by the laws (including the Law on civil service and the Law on police). For most interlocutors, the consequence to be drawn is that, in practice, there cannot be positive measures in place, as the individual right to privacy and to not be forced to declare his/her affiliation must prevail over a broadly framed collective right to adequate representation for national minorities. It must be recalled, however, that such an interpretation is too rigid and leads to de facto marginalization of minorities, especially in their right to effective participation (Article 15 FCNM). Indeed, there are several criteria that allow to overcome this potential contradiction, and some of them are in fact already used by some Serbian administrations, such as, for example, the provision of more points for the candidates that speak a minority language.[138]

11.3. Recommendations

- Step up efforts to guarantee a more thorough implementation of the constitutional principle of "**appropriate representation**" in the civil service at large and collect ethnically disaggregated data in this respect.
- Make all efforts to establish the **Councils for Interethnic Relations** in all ethnically mixed municipalities, possibly making them structural commissions of the municipal assembly and increasing their powers. Provide them with the funding necessary to carry out their institutional mandate. Consider to provide that the members belonging to national minorities are not appointed by the respective NMC and clarify the rules according to which the Serbian members are appointed.
- Make sure that the **National Council of National Minorities** meets more regularly and analyze the causes why this has not happened so far. If appropriate, consider amending the composition of the Council in order to make it more effective: while it is positive that the National Council is composed by top political officials including the Prime Minister, this is of little help if it in the end never convenes. Alternatively, create a different forum where NMCs meet (among them and with civil society) in order to discuss and coordinate issues of common interest, especially in fields where capacity is more lacking, such as education and media.
- Introduce **indicators** to measure the effectiveness and impact of the work of NMCs, including regarding the use of funds (both those provided by the State budget and those coming from "kin-States").
- Follow up on the **recommendations** of the Ombudsman, the Commissioner for the Protection of Personal Data and the Commissioner for Equality Protection regarding the electoral framework for the NMCs.

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[138] Sometimes, however, just based on informal agreements, such as the one in place in South Serbia agreed within the Coordination Body for South Serbia. In other cases, this is instead stipulated by law (such as, for instance, in the Law of Pubic Prosecutors, which provides that in appointing prosecutors and their deputies attention should be paid to the representation of persons belonging to national minorities).

- Consider amendments to the role of NMCs, especially with a view to diminishing their **politicization**. This may be achieved, for example, by introducing incompatibility between membership in a NMC and high political offices; by eliminating the provision allowing political parties to propose candidates for NMC elections; by formally including representatives from civil society in the NMC alongside with elected representatives; by exploring ways of introducing power-sharing systems in the governance of NMC in order to include representatives of the losing factions in decision-making. Consider also the opportunity to decentralize activities of the NMCs. Follow up on the recommendations issued by the Ombudsman in 2010 on the system of election of NMCs.
- Consider the long-term impact of the provision in the **Law on political parties** according to which minority parties can only represent one national minority, especially in terms of proliferation of political parties and of ethnic segmentation of Serbian society.
- In order to make representation of persons belonging to national minorities in the civil service more "appropriate", as mandated by the Constitution, consider extending **preferential criteria** for persons belonging to national minorities, including knowledge of minority languages, in the hiring procedures where these are not yet in place, especially for the jobs that require more frequent contact with the public.

12. Inter-State relations

12.1. Framework and fact finding

Serbia has signed four bilateral agreements with neighbouring States on the protection of minority rights, respectively with the former Yugoslav Republic of Macedonia, Croatia, Hungary and Romania. The bodies set up by the agreements (joint commissions) do not meet frequently and their effectiveness remains limited.

Also due to the history of the region, inter-State relations often get tense around minority issues. Overall, there seems to be very little awareness of opportunities and limits of support to national minorities abroad that can be provided by States.[139] Especially the unfortunate recent disagreements with Romania show the potential of neighbourly relations in resolving or worsening minority issues, depending on the attitude of the involved actors. According to several interlocutors, an ongoing process of creeping "passportization" is taking place, with many persons especially in Eastern Serbia been given Romanian or Bulgarian passports; such allegations, however, were not substantiated with evidence, although interlocutors referred to that as a "notorious fact". No figures were given as to estimate number of persons belonging to national minorities (neither in Vojvodina nor in Eastern Serbia) taking advantage of other benefits provided by neighbouring ("kin") States, such as study grants, working permits and the like, even though such number was reported to be "high".

Authorities at local level, especially in Eastern Serbia, show little awareness and information with regard to the instruments for territorial cooperation adopted by the EU[140] and the Council of

[139] In this regard, the two guiding documents are the 2001 Report of the *Venice Commission* on the Preferential Treatment of National Minorities by their Kin-State, CDL-INF(2001)019, and the 2008 *OSCE HCNM* Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations.

[140] Notably the European Grouping for Territorial Cooperation (Regulation 1082/2006) and, more broadly, all the instruments of regional policies available also to non-EU Member States.

Europe.[141] This contributes to make especially the Danube border a factor of separation rather than of approximation, despite the fact that there are obvious similarities and common interests on the two sides of the border and that there are interesting precedents that could be better developed and more actively used.[142]

Also the transnational contacts among persons belonging to the same minority residing in different countries of the region, including Vlachs, seem to be underdeveloped if at all existing. This situation is considerably different in Vojvodina where a significant increase in trans-boundary contacts and cooperation is reported; this applies, in particular, to persons belonging to the Croat, Czech, Hungarian and Slovak minorities.

12.2. Recommendations

- Make efforts to conclude **bilateral cooperation agreements** relating to the protection of minorities with other neighbouring countries, including Bulgaria and possibly also Bosnia and Herzegovina, Albania and Montenegro.
- Make sure that the **joint committees** established by the existing bilateral agreements meet more frequently and their potential is fully exploited. Where appropriate, the joint committees can meet in form (or supplemented by) technical groups, providing a forum for experts to discuss issues of common interest in a less politicized way.
- Make efforts to use the joint inter-governmental commission established by the bilateral **agreement with Romania** to facilitate a solution to the current dispute while fully respecting international standards on national minorities in inter-State relations.
- Organize, in cooperation with the EU, the Council of Europe and the OSCE, regional training **seminars** on the international standards regarding preferential treatment of "kin-minorities" abroad.
- Increase awareness at local level of the opportunities provided by instruments of **territorial cooperation**, with a view to make use of them, where appropriate, alongside Serbian borders.
- Consider to promote, with EU support, a **regional "Vlach strategy**" addressing issues of common interest to all Vlachs living in the region.

13. Restitution of confiscated properties

13.1. Framework and fact-finding

As a follow-up to the above-mentioned 2006 Law on Restitution of Confiscated Church Property[143], the Serbian Parliament adopted, on 26 September 2011, the Law on Restitution of Confiscated Property and Compensation. In principle, it applies to all acts of expropriation enacted after 9 May 1945 and is of particular relevance for persons belonging to the Hungarian national minority in Vojvodina. Its representatives highly welcomed this law but expressed some doubts as to its swift implementation.

[141] In particular the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 106), 1980 and its three additional protocols.

[142] Like the Danube-Kris-Mureş-Tisza Euroregion of which Vojvodina is a member.

[143] See note 68.

Representatives of the German minority criticized that, due to its temporal limitation, the law does not apply to the Resolution of the AVNOJ (*Antifašistička Vjiće Narodnog Oslobođenja Jugoslavija*, Anti-Fascist Council of National Liberation of Yugoslavia), adopted on 21 November 1944 which constitutes the legal basis for, inter alia, the confiscation of all property then owned by ethnic Germans.

13.2. Recommendation

- Ensure the swift implementation of the **Law on Restitution**.

MAIN FINDINGS

As a follow-up to the March 2012 European Council Conclusions, the European Commission tasked the authors of the present expert opinion, professors Rainer Hofmann, Dalibor Jilek, and Francesco Palermo, to **assess** the level of protection of the national minorities which have or will shortly have a "kin-State" in the European Union; the mandate was therefore not to author a comprehensive opinion on all national minorities residing in the Republic of Serbia. In order to fulfil this focused task, the experts met, during their visit to Serbia (9-13 July 2012) with representatives of national and provincial (Vojvodina) administration, local government bodies, several National Minority Councils (*NMCs*), local Councils for Interethnic Relations (*CIERs*) and civic associations in various parts of Serbia.

Since the European standards for the protection of the rights of persons belonging to national minorities are primarily set by the 1995 Council of Europe's Framework Convention for the Protection of National Minorities (***FCNM***), this report mainly follows the structure of the Convention.

The **overall situation** of persons belonging to national minorities in the Republic of Serbia who, according to the 2002 census, constituted about one sixth of its population, can be assessed as, by and large, satisfactory.

The **legal framework** for the protection of the rights of persons belonging to national minorities has been significantly developed over the past ten years and now results in a rather complex set of norms that, overall, puts the country above the average European standard in this field. While the body of relevant law involves nearly all branches of public law, the essential elements of minority rights protection and enactment in Serbia are contained in four main acts: the Constitution, adopted in 2006, which contains a specific chapter on the rights of persons belonging to national minorities (articles 75-81); the 2002 Law on the Protection of the Rights and Freedoms of National Minorities (Law on National Minorities); the 2009 Law on National Minority Councils (NMC); and the Law on Official Use of Languages and Scripts.

Despite a very well developed legislative and institutional framework, **implementation** of the relevant provisions in practice remains much more limited, although with considerable regional differences between, in particular, the autonomous province of Vojvodina (which is far more advanced in this regard) and the rest of the country. Such persisting shortcomings in implementation have to do with a number of **factors**, including lack of continuity in the allocation of institutional responsibilities for national minorities, insufficient capacity in parts of the administration, especially at local level, but also an overall underdeveloped sensitivity and awareness of minority issues and rights in large parts of the population, including among politicians and among minority representatives themselves. Moreover, this complex legal framework shows a low degree of harmony and cohesion. Finally, the strong institutionalization of the minority rights system in Serbia, mostly due to the role played by the NMCs, produces **over-politicization** of national minority issues and might well induce, in a medium-term perspective, **self-isolation** of national minorities and insufficient interaction among them as well as between them and the majority population.

These persisting **shortcomings** in the overall legislative structure concerning the rights of persons belonging to national minorities have resulted not only in these deficiencies of a more general nature, but also in a number of specific, subject-matter related problems which are identified in the present report. Moreover, the authors have formulated a (limited) number of recommendations for immediate action and a (larger) number of recommendations for mid- or long-term action which they consider to be conducive to the solution of the shortcomings identified.

In addition to these specific recommendations, the authors wish to point out **four issues of a more general nature** which they invite the Serbian authorities and their EU partners to consider with a view to identifying and implementing appropriate solutions to such issues:

1. In order to overcome the above-identified reasons for the persisting deficiencies in properly implementing an overall satisfactory legislative system, the **general approach to minority issues** should be modified and the Serbian society be made more aware of such issues, including the fact that Serbia is a multiethnic State in which also special/positive measures favouring persons belonging to national minorities are needed and justified.

2. One of the major reasons for one of the most acute specific problems, i.e. the so-called Vlach issue with its international repercussions, seems to be the **legal and factual position of the Serbian Orthodox Church** which, in view of the Venice Commission shared by the authors, is disproportionate for a secular State. While it is clearly not within their mandate to propose any specific action to be taken by the State authorities in the context of the religious rights of persons belonging to the Vlach community, the authors are of the firm opinion that the Serbian State cannot simply invoke a position of formal neutrality, based on the argument that such action would interfere with purely internal affairs of the Church, and refrain from any action which would ensure to such persons fully to enjoy their freedom of religion.

3. Moreover, it seems that **NMCs** have, to a very large extent, captured minority policy and most of the available resources. Thus, the way they perform their tasks seems to result rather in an institutionally segregated, parallel development within society than to contribute to an integrated society – the task accorded to them by the Constitution. Therefore, the authors of the present report invite all stakeholders in Serbia to engage in a discussion with a view to agreeing on the ways and means to be adopted in order to ensure that NMCs fully contribute to the creation of a more integrated society.

4. Finally, the authors of the present report wish to emphasize the need that all actors involved, including "**kin-States"**, fully respect their international law obligations as enshrined, in particular, in the 2008 HCNM Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations: While such "kin-States" may have a legitimate interest in contributing to the improvement of the factual situation of their "kins" in other States, such contribution must be offered and implemented in the spirit of good neighbourly relations and in a way that clearly respects the sovereignty of the other State concerned and aims at further improving full integration within its society rather than fuelling its fragmentation.

RECOMMENDATIONS FOR IMMEDIATE ACTION

1. Improve **awareness** of the presence of persons belonging to national minorities in the country and of their rights, including to *special/positive measures* as appropriate, among the wider public and civil servants at all levels; constantly *review* the legislation in order to avoid conflicts of norms; and establish a stable system of *national coordination* on minority issues with clearly defined competences and obligations.
2. Consider to revise the **Law on Churches and Religious Communities** in order to bring it more in line with the Constitution and the international treaties to which Serbia is a party, including by reviewing the privileged status of the seven traditional churches and religious communities, and the regulations concerning religious education.

3. Adopt measures to reduce the **excessive politicization of National Minority Councils**, including by considering the introduction of rules on power-sharing systems in the government of a National Minority Council or on incompatibilities such as between membership in a National Minority Council and high political offices, and follow-up on the recommendations issued by the Ombudsman in 2010 on the system of election of National Minority Councils; ensure that all *Councils for Interethnic Relations* in all ethnically mixed municipalities are established and all conditions for their effective work are fulfilled; ensure that the *National Council of National Minorities* meets more regularly and works more effectively.
4. Make strong efforts, in cooperation with the EU, the Council of Europe and the OSCE, to achieve a solution to the current dispute with Romania concerning the situation of the **Vlach** minority while fully respecting international standards on national minorities in inter-State relations.

MAIN RECOMMENDATIONS FOR MID- AND LONG TERM ACTION[144]

1. Continue the policy of non-interference with regard to the contested **identities** of Bunyevtsi and Vlachs but strongly foster dialogue within these communities as well as with persons belonging to the Croat and Romanian minorities, respectively.
2. Revise the system of **financing minority activities** and consider introducing a system that is not exclusively based on provision of funds to the National Minority Councils; ensure that all funds are transferred without delay and that they are used in a transparent way fully in line with the applicable law.
3. Include **racist motivation** as an aggravating circumstance in the criminal code; ensure the effective prosecution of ethnically motivated crimes and *hate speech* and amend, as appropriate, existing legislative provisions that still hinder effective prosecution of such acts.
4. Intensify **dialogue with the Serbian Orthodox Church** encouraging the use of minority languages in the services where possible and appropriate; while respecting State neutrality in religious affairs, promote dialogue between the Serbian and the Romanian Orthodox Churches on ways to improve language rights of persons belonging to the Vlach community in religious services.
5. Include in the legislation an exemption from the requirement of a minimum **quota of 50% of programmes to be broadcast in Serbian**; and verify whether allocated time, resources and contents of programmes designed for national minorities are adequate for the needs of a modern multiethnic society.
6. Improve the awareness of **linguistic rights** of persons belonging to national minorities throughout the whole territory of Serbia; ensure the strict and consistent implementation of all pertinent legislation, including on the right to use personal names and carry out a thorough review of this legislation with a view to considering better coordination among the provisions.
7. Continue efforts to produce quality *textbooks* for minority language **education** and to tackle the shortage of qualified *teachers*, including, as appropriate, through bilateral

[144] For a more detailed list of recommendations see the respective parts in each section of this report.

cooperation with some "kin-States"; ensure that information is made available with regard to the right to set up educational programmes in minority languages, including regarding applicable requirements, and that such legislation is duly implemented; and support the requests for additional Serbian language teaching, in order to ensure that all persons belonging to national minorities acquire good *knowledge of the State language*.

8. Step up efforts to guarantee a more thorough implementation of the constitutional principle of "**appropriate representation**" in the civil service at large and collect ethnically disaggregated data in this respect; in this context, consider extending preferential criteria for persons belonging to national minorities, including knowledge of a minority language, in the hiring procedures.
9. Organize, in cooperation with the EU, the Council of Europe and the OSCE, regional training seminars on the international standards regarding preferential treatment of "**kin-minorities"** abroad; and increase awareness at local level of the opportunities provided by instruments of *territorial cooperation*, with a view to make use of them, where appropriate, alongside Serbian borders. This may lead to the development of a common regional strategy for the Vlach communities settled in the region.
10. Ensure the swift implementation of 2006 **Law on Restitution** of Confiscated Church Property and the 2011 Law on Restitution of Confiscated Property and Compensation.