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An assessment of the relevance, effectiveness and impact of the National Minority Councils in Serbia

The OSCE High Commissioner on National Minorities

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Introduction

This paper assesses the relevance, effectiveness and impact of national minority consultative mechanisms in Serbia in the period of the first mandate of the National Minority Councils (NMCs) from 2010 to 2014. The findings could help the High Commissioner on National Minorities in its activities in Serbia. As it was set up in the research methodology the objective of the research was to analyse legal and political basis for national minority participation mechanisms, their capacities, scope of responsibilities and impact. The research has been commissioned by the OSCE High Commissioner on National Minorities and the Forum for Ethnic Relations is thankful for the input, advice and expertise we received from the Office of the HCNM.

Methodology

The name “Sandzak” in this paper, refers to the municipalities of Novi Pazar, Tutin and Prijepolje, which are part of the Raška region in Serbia.

The research was conducted between Sep. 3 to Oct. 24, 2014, on the territory of the Republic of Serbia. In-depth interviews were conducted with key stakeholders, based on received instructions, including representatives of National Minority Councils (Hungarian, Croatian, Slovak, Romanian, Bunjevac, Vlach, Albanian, Bosniak, Roma, Bulgarian), institutions established by NMCs, members of national minorities who are members of NMCs, representatives of the Serbian Government (Ministry of Culture and Information, Ministry of Education, Science and Technological Development, Ministry of Public Administration and Local Self-Government, Office for Human and Minority Rights of the Government of the Republic of Serbia, Committee for Human and Minority Rights and Gender Equality of the National Assembly of the Republic of Serbia, Coordinating Body of the Government of Serbia for the Municipalities Bujanovac, Presevo and Medvedja), representatives of local self-

government, as well as international institutions and diplomatic representations (Bulgaria, Croatia, Slovakia, Romania, OSCE Mission to Serbia) (Table 1).

The acronym NMC used in this text, stands for the National Minority Councils.

Table 1. Survey of respondents by type and location

	National councils	Non-members	Institution	Embassies	International organizations	Total
Subotica	3	3	2	0	0	8
Novi Sad	1	3	2	0	0	6
Belgrade	2	5	3	4	1	16
East Serbia	2	4	3	0	0	9
Sandzak	1	6	1	0	1	9
South Serbia	1	2	1	0	0	4
Total	10	23	12	5	2	52

The interviewing process had two main features:

- Firstly, participants in the research generally had positive reactions to the research, with only a very small percentage refusing to participate, and
- Secondly, participants reacted to the research in two ways: proactively and restrictively.

Non-members of NMCs, namely those who are not politically engaged, had a proactive approach. Their motives for participation were the following: they were confident that the research results will be used to initiate changes to minority policies or changes to the elements of minority policies the respondents were not satisfied with; they viewed the participation in the research as an opportunity to inform relevant international stakeholders on the status of their national minorities.

Representatives of local self-governments and ministries had more restrictive approach to the research; they understood the research as a “screening performed by international institutions”. These respondents hesitated to make assessments and express their standpoints, and they were primarily referring to the legislation and official statistics.

Since the research was conducted during the NMC election campaign, certain respondents saw their participation in the research as a chance to present the election programmes of their

parties (some of the respondents were distributing their election material). Some of the respondents understood the research also as a possible “unofficial surveillance” of the election process by the State or international institutions.

Under the given situation, the guidelines along which the interviews were conducted, gave the respondents an opportunity to give “broad and generic principles” and publically known answers, which was in line with the fact that NMSs, and the relevant government bodies, do not conduct assessment processes and keep records on the work of NMCs. This shortcoming was resolved by deepening and expanding the instrument used for interviews (additional questions related to indicators: responsibilities, perception, communication, representation, influence, etc.) with the aim to place the research into the legal and social context of Serbia, and simultaneously enable a comparison with other examples from the international practice in terms of context and methodology.

Conclusions and observations

Although the development of the present legal framework for minority policies had begun immediately after political changes in 2000 (the Law on the Protection of Rights and Freedoms of National Minorities was passed already in 2002) based on an agreement concluded between leaders of democratic parties and national minorities, the respondents believe that the issue of minority policies was imposed from the outside and that the implementation of minority policies has been done under pressure within the “process of Europeanization“ of Serbia. This indicates that even the prominent stakeholders in minority policies are not informed on the course and political context of minority policies, and thus neither of its aims.

The respondents expressed different understanding of the role of NMCs: according to one group, the national minority councils are a consultative mechanism, according to the other this is an institution of cultural autonomy, and according to the third one this is a national self-government body. The concept of minority self-government was supported mainly by respondents who represent national minority councils from south Serbia (non-members of the National Council of Albanians and representatives of local self-government), Sandzak (non-members of the National Council of Bosniaks) and Vlachs who are not members of the National Council of Vlachs. The first two concepts were advocated primarily by representatives of government authorities and local authorities. This fact indicates that the legal definition of the NMCs is vague, as well as that there is political fluctuation regarding the nature of this body. Having in mind that, pursuant to the Law on the Protection of Rights and Freedoms of National Minorities, the introduction of NMCs is a key step forward in the direction of minority self-administration and self-government, the research indicates that this step was not supported by all actors, namely that one of the leading ideas underlying minority policy has not been consistently realized. The reason is that it was impossible to establish a sincere and effective compromise within the political elite which is in power and passing the laws, particularly in regard to the Law on National Minority Councils. This opens also the room to strengthen requests to fully remove

this institution on the one hand, as well as requests for further build-up of the legal and institutional framework in the direction of the proclaimed liberal-democratic step forward on the other.

In view of the respondents, education and culture are fields in which the national councils have achieved best results, first of all by introducing the national minorities' languages into the educational system. There is stagnation, namely regression, regarding information services. However, they think that the official use of language in state institutions (particularly justice and police) represents a challenge which should be significantly more in focus.

The research indicated that the key challenges regarding an increased influence and representation of NMCs is the election procedure of their members:

- the election system, namely the registration of voters in a separate electoral register, and the newly established role of the Republic Electoral Commission (pursuant to amendments to the 2014 Law on National Minority Councils) which in its work is counting upon municipal electoral commissions, without ensuring that all minority lists which participate in elections for NMCs are represented in electoral councils;
- inadequate budgets for the activity of NMCs, which endangers the fulfilment of the mandated responsibility; insufficient internal organization and capacities of NMCs;
- legal norms which stipulate the scope of responsibilities of NMCs are not harmonized with other laws relevant for the functioning of NMCs, particularly in the field of education and culture;
- NMCs are subordinated to the influence of political parties.

Respondents indicated that the following factors lead to a disturbing trend of reduced influence of NMCs:

- decisions of the Constitutional Court on the unconstitutionality of certain articles of the Law on National Minority Councils (16 January 2014, Decision of the Constitutional Court, case No. IUz-882/2010)¹;
- there is no mechanism for effective implementation of decisions of NMCs, and
- it is legally and politically impossible to sanction those who prevent the implementation of decisions of the NMCs.

It was indicated that the national minorities demonstrate a strong tendency to close themselves, as well as that they and the majority population are living in "parallel worlds". In view of the respondents, such a situation is supported by the existing system of communication of the NMCs with the members of minority communities which they represent, with institutions

¹ <http://www.ustavni.sud.rs/page/view/sr-Latn-CS/88-101942/pojedine-odredbe-zakona-o-nacionalnim-savetima-nacionalnih-manjina-nisu-u-saglasnosti-sa-ustavom>

and with the general public in the Republic of Serbia; this system is insufficiently developed and not efficient.

1. Legal basis and context

In October 2000, the Republic of Serbia started the process of democratization and began to establish a new legal and institutional framework for a minority policy.

The legal framework of the minority policy of the Republic of Serbia includes: constitutional documents, legislation (particularly important is the *Law on the Protection of Rights and Freedoms of National Minorities*, 2002) and by-laws; legal acts adopted at the level of the autonomous Province of Vojvodina and at the level of local self-government; ratified international treaties: the multilateral ones, first of all those adopted within the Council of Europe and OSCE, like the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages, and the bilateral treaties with Croatia, Hungary, Macedonia and Romania, which regulate the realization and protection of rights of members of the Croatian, Hungarian, Macedonian and Romanian minorities in the Republic of Serbia as well as the position of the Serbian minority in these states.

The legal framework sets forth and guarantees an ample list of rights and freedoms: general definition of the legal status and protection of national minority rights; guarantee of right to participate in the political life and decision-making; rights regarding the official use of language, education, culture, information services; right of national minorities to self-government.

In order to understand the significance of the minority policy for the Republic of Serbia it is necessary to keep in mind the following:

- respect of national minority rights is the condition for the democratization of the Republic of Serbia and is an important criterion for Serbia's accession to the European Union, which has been monitored from the time when Serbia became a candidate (2014) and will be monitored until the end of the association negotiations (within Chapter 23 – Justice and fundamental rights);
- the impact of circumstances in the region, namely in the territory of former Yugoslavia, because the dissolution of SFRY resulted in the emergence of “new minorities” since significant parts of national groups who had been living in a single state now found themselves in the newly established states, and this was often accompanied with the violation of fundamental human rights, collective and individual, and with physical and political persecution, ethnic cleansing and violation of minority rights.

In the region, problems of national minorities are directly linked to inter-state relations, because the neighbouring countries are “kin-states” of numerous minorities. Minority issues are linked to national issues among which many – particularly the Serbian, Croatian and Albanian –

are regional issues and can be solved only within regional cooperation.

Assessment: Adequate

After fifteen years in which the legal framework of the minority policy of the Republic of Serbia has been developed, it may be assessed that in the Republic of Serbia the protection of rights and freedoms of national minorities and their members is generally very well regulated and is exceeding requests imposed by international obligations.

*“Serbia has one of the most comprehensive legislations when it comes to minorities.”
(representative of an international organization)*

At the same time, this framework has numerous weaknesses, among which are also the following ones:

- Legal technique is often at a low level, legal norms are often taken over from international instruments without consideration of whether they are appropriate for the political and social context in Serbia, so that they are not a result of a coherent minority policy;
- The primary aim of the legal framework is to protect the identity of national minorities, but it does not contain instruments for an efficient inclusion of national minorities into the society. The result is segregation and separation of the majority and minority communities and the creation of parallel “micro-societies”;
- There is a discrepancy between the normative and real situation. Most of the respondents – non-members and members of national minority councils – expressed the view that implementation of the existing legal and institutional framework faces problems because there are insufficient capacities, resources as well as political will to also implement rights guaranteed by law. The respondents interpret the lack of political will to implement rights guaranteed by law as fear of the authorities from new forms of separatism and see it as a result of the prevailing opinion that in view of the bad economic situation priority should be given to business and economic issues and not those related to minority rights and policies. As an example for the absence of political will of the Government of the Republic of Serbia to respect the guaranteed right is given the fact that in many years no session of the State-level Council of the Republic of Serbia for national minorities was held, or that in the fifteen years the government body which should deal with minority policies frequently changed – from the ministry, over the department, the directorate within the ministry, to the Office for Human and Minority Rights;
- Primary focus is on the preservation and promotion of the specificity of minority communities, with limited dedication to furthering mutual connections of minority communities, and a complete absence of dealing with the relations between the majority and minorities.

The respondents think that these problems can be solved by consistently respecting the

spirit of the existing *Law on the Protection of Rights and Freedoms of National Minorities*, and this means:

- Revision and codification of the existing legislation in all fields of immediate significance for the realization of proclaimed rights and freedoms of minority communities and their members. Respondents emphasized the need to remove the conflict of competences, to harmonize procedures and timelines, as well as to remove legal vagueness and fill-in the legal gaps;
- In order to unify the numerous provisions in other laws related to certain minority rights it is necessary to establish a rule by which provisions of other separate laws pertaining to rights of minorities and their members may not be contrary to this basic Law;
- A more comprehensive regulation of the mechanism for protection and implementation of minority rights, particularly a more efficient procedure before administrative bodies and courts in case of violation of these rights (special procedural norms etc.);
- Stimulation of regional cooperation in the standardization and harmonization of minority legislation;
- Cooperation of the Government of the Republic of Serbia and the Government of the Autonomous Province of Vojvodina (APV), representatives of national minorities and organizations of the civil society in the elaboration of a *National Strategy for a democratic minority policy in the Republic of Serbia*, as well as a corresponding *Action plan for the implementation of the National Strategy in the period 2015– 2020*.

2. Scope of responsibilities

Establishment, functioning and legal position of NMCs are regulated by the Constitution of the Republic of Serbia, the laws and by-laws.

National Minority Councils have been introduced into the legal system of the Republic of Serbia by the *Law on the Protection of Rights and Freedoms of National Minorities*, as the instrument through which members of national minorities can realize their right to self-government regarding use of language and alphabet, education, information services and culture. It took almost seven years to define the scope of responsibilities, financial sources, rules to be applied for the election of the Council, namely until 2009 when the *Law on National Minority Councils* was passed². This Law regulates in more detail the general competences which the NMCs perform independently or by participating in decision-making in the field of culture, education, information services and official use of language and alphabet, as well as the procedure for election of national councils, financing and other issues relevant for their work. Among others, this Law precisely sets forth (Article 2/2) that the NMC shall represent the national minority in the mentioned fields. Through its bodies the NMC shall, pursuant to the law and its statute, act independently in order to: initiate the adoption and monitor the

² Law on National Minority Councils, *Official Gazette of the Republic of Serbia*, No. 72/2009

implementation of the law and other regulations in the field of culture, education, and official use of language and alphabet (Article 10/1/9); to participate in the preparation of regulations and propose amendments to provisions which regulate rights of national minorities guaranteed by the Constitution in the field of culture, education, information services and official use of language and alphabet (Article 10/1/10); propose separate regulations and interim measures in fields relevant for the realization of the right to self-government, in order to achieve full equality among the members of the national minority and citizens who belong to the majority community (Article 10/1/11); institute proceedings before the Constitutional Court, the Ombudsman, the Ombudsman in the Province, the local Ombudsman and other relevant bodies, when it assesses that the Constitution and rights and freedoms of members of national minorities which are guaranteed by law were violated (Article 10/1/12); take standpoints, initiate and undertake measures related to issues which are directly linked to the position, identity and rights of the national minority (Article 10/1/14); and others.

The scope of responsibilities of the NMC are defined in a range from implying the comprehension of the national council as the body of minority self-government (*Law on Rights and Freedoms of National Minorities*) to its comprehension as the body of a narrowly understood cultural autonomy of national minorities (*Law on National Minority Councils* and particularly the *Law on Amendments to the Law on national Minority Council* from 2014).

In the words of the representative of the Office of the Ombudsman of APV “*For such a young institution, these four fields are sufficiently developed for this initial phase; some councils focused only on one of the responsibilities. We have councils which focused on responsibilities only in culture, and neglected, for instance, the official use of language. Only the Hungarian Council dealt seriously with all fields... its capacities are the biggest, its expertise, experience and tradition in every respect.*”

Representatives of institutions, international organizations and part of the members of consultative mechanisms assess the legal norms regulating the scope of responsibilities of national councils as good, whilst all participants in the research unanimously emphasize the problem of their implementation.

Respondents, both members and non-members of national councils of less numerous national minorities, consider the existing definition of the scope of responsibilities of the NMC as adequate. Non-members of NMC and representatives of local self-governments in which the Albanian national minority is the majority, as well as non-members of the Bosniak National Council and non-members of the Vlach National Council, expressed the view that NMCs should get new competences. Significant in this regard is the following: “*The activity of national councils should extend to the field of human rights, religious communities, young people and sports.*” (*non-member of the National Council, Bosniak national minority*).

As regards mutual cooperation and coordination of councils, particularly when it comes to

relations with state bodies at the central, provincial and local levels, the Law on National Minority Councils lacks precision. In order to fill-in this gap, the Government of the Republic of Serbia adopted in 2009 the Regulation by which a State-level Council of national minorities was established; it is headed by the Prime-minister and in its work participate ministers whose competences are important for the implementation of minority policies, as well as representatives of NMCs. Provisions of this Regulation are not precise, and this body was absolutely passive since it met only few times; this shows that there was also no political will to have this body perform its role in the cooperation with the NMCs.

Respondents also pointed out examples where the opinions of the NMCs was ignored, i.e.: when councils for inter-ethnic relations were not formed at the level of local self-government or they were formed without consent of the NMC; when establishing classes in the national minority language, and when the staff in the institutions significant for the national minority were being appointed. The research indicates that numerous problems in the implementation of mandated responsibilities of NMCs emerge at the level of local self-government in case that the NMC is controlled by a different political option than the one which participates in the local government.

Respondents coming from state bodies link successful realization of mandated responsibilities to the size and capacities of the national minority. In case of smaller national minorities, NMCs decide to work in only one of the given four fields, since it is impossible for them to fulfil their mandated responsibilities in all four fields with the capacities they have.

In view of NMC members, it is the insufficient financial means which are the factor which aggravates the realization of their responsibilities.

The by-law of the Government of the Republic of Serbia (2010), and not the law governing the appropriation of budgetary funds, defines criteria governing the financing of NMCs; it favours national minorities which have already formed institutions and developed the administrative infrastructure.

The basic weakness of the present system under which the NMCs are financed is that they mainly depend upon budgetary funds, which only cover core running costs, and not work on programmes. In certain cases, the funds are not sufficient for the implementation of mandated competences, like in the case of participation in the procedure under which school textbooks in the minority languages are approved.

Respondents warned that there was no analysis of the structure of NMC expenditures, that the status of property was not solved, and that there is also no complete insight into the property of NMCs. Also, it is necessary to re-examine the criteria under which funds are allocated to the NMCs. For instance, when it comes to the official use of language, education, culture or information services, crucial is the number of existing institutions of national minorities, or the percentage of minority community members in the population of a given local self-government

unit in which the minority language is in use. These criteria, in the view of the respondents, are unfavourable for the small national minorities, as well as for members of minority communities who live beyond the territory of AP Vojvodina. It is also significant that the respondents expressed their conviction that the status of national minorities differs depending on the territory, namely that in terms of financing the national minorities in AP Vojvodina are in a far better position than those in central Serbia; namely, those in central Serbia get funds only from the central budget, whilst the national councils in AP Vojvodina receive them from two budgets: that of the Republic and of the Province.

Pursuant to the decision of the Constitutional Court of the Republic of Serbia of 16 January 2014, ten articles of the *Law on National Minority Councils* were declared unconstitutional, completely or partly. The Constitutional Court assessed certain provisions of this Law in terms of content and scope of the councils' competences. Respondents – members and non-members of NMCs – consider the decision of the Constitutional Court of the Republic of Serbia to be a step backwards, one which makes the issue of the nature and even survival of national minority councils more acute.

The respondents who are members of NMCs think that there is a positive example in the practice of the NMCs, namely the relevant bodies in most of the cases accept the opinion of national minority councils regarding the selection of projects aimed at enhancing the rights of national minorities.

Assessment: Inadequate

It is assessed that the existing definition of the scope of responsibilities of national councils is not clear and consequent, although the starting point is adequate. It is necessary to define more clearly the role and position of these institutions within the legal system of the Republic of Serbia, namely to establish more precisely and expand the competences of the NMCs. It is also necessary to define more precisely the responsibilities of bodies at the central and local levels in regard to national councils, namely their proposals and requests. The legislation should offer an answer to the existing outstanding differences in the capacities of NMCs (for instance, introduce additional mechanisms for support to national minorities beyond the territory of AP Vojvodina, as well as control over the realization of the right of NMCs within their scope of responsibilities).

3. Perceptions and expectations

Perceptions of and expectations from NMCs as a consultative mechanism were presented from the perspective of members and non-members of national councils, institutions which “cover” fields within the competences of national councils. Also, analysed were the expectations regarding the scope of responsibilities and context within which the national councils operate.

The dominant view of most of the respondents is that the introduction of NMCs was to a significant extent a result of external influences, first of all the process of Euro-integration, and less a result of a harmonized minority policy conducted by Serbia.

“One of the three conditions for the process of European integration is to pass minority laws, laws on the protection of rights and freedoms of minority communities and sign the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages.” (member of the Romanian National Council).

During the research two approaches were identified regarding comprehension of the NMCs as consultative mechanisms:

- “Endowment” approach, which was highly supported by representatives of institutions at the national level, according to which the NMC is the instrument of cultural autonomy, i.e. guardian of national identity. Members of other NMCs, first of all those with a seat in AP Vojvodina, see the national councils within the concept of cultural autonomy, but advocate an increase of available financial resources and enhancement of the position of the Province in Serbia.

„It is of primary importance that they raise awareness of the existence of minority representatives in this area and of all their characteristics and specificities, such as language and alphabet. The minorities should work to strengthen their identity, using their representatives, their language and culture. In cooperation with the majority community they should be a link with their kin-state. (representative of the state institution, Bosniak minority).”

- “Self-government” approach, advocated by non-member respondents from central Serbia (Albanians, Bosniaks and Vlachs). In this concept, the national council is the body of minority self-government. However, this would request an extension of the present responsibilities of the NMCs – for instance, to expand them to the field of economic development of regions in which the national minority is living, to human rights of national minorities, religion, sports and improvement of the position of young people.

“Their role is to fight for fundamental human rights, to sensitize the public and point at problems through their writings, decisions, commentaries.” (local self-government, Albanian national minority)

The research revealed a paradox. On the one hand, members of NMCs see the NMC as an instrument through which can be solved the issue of preservation of cultural identity, as well as their own (personal and family) problems; on the other hand, non-members of NMCs note that

the citizens are not well informed on the scope of responsibilities of national minority councils, which results in confused perceptions and evaluation of their work.

“People struggle for their existence. People are embittered, they cope with primary issues, existence, they had it enough with everything. I expect the awareness to reach a certain level, when everybody will be requesting minority rights because they are entitled to them. (non-member of the consultative mechanism, Bosniak national minority).”

Respondents from the Albanian and Bosniak national minority differ significantly in their comprehension of the function and role of NMC.

Respondents from the Albanian national minority from municipalities in south Serbia with an Albanian majority demonstrate two contrasting attitudes in regard to NMCs:

- First, the “integration” attitude, according to which the Albanians should realize their rights within a guaranteed cultural autonomy. Such attitude is promoted by political actors, who participated in all elections for the National Assembly of Serbia, and participated in the establishment of the National Council of Albanians.
- Second, the “symmetrical–self-governmental” attitude, according to which the NMC of the Albanian national minority is a specific political assembly of Albanians in Serbia, whose scope of responsibilities should be at the level of those enjoyed by Serbs in north Kosovo, which were guaranteed by the Brussels agreement.

“We ask nothing beyond what is guaranteed to the Serbs by the Kosovo Constitution. If Serbia wants into the EU, then it should guarantee to the minorities individual and collective rights.” (representatives of local self-government in municipalities Bujanovac and Preshevo).”

Representatives of the Bosniak national community, particularly non-members, mention a high level of unemployment and deep political divisions within the national minority as the major problem of this community. Such situation reduces the interest of members of the Bosniak community to engage in support of the National Council of the Bosniak community. As regards the perception of the NMC results, the same respondents hold the view that this body is not sufficiently active.

The work of NMC is assessed in the same manner also by representatives of the national council. According to them, the existing legal framework suits bigger NMCs. Also, they emphasize the party influence upon the work of NMC, and that the work of the national council is more effective if the NMC and the local self-government have the same party majority.

“Representatives of minorities put too much emphasis upon differences; they use their ethnic origin as a factor of division and for requesting increased autonomy, instead of utilizing it to seek for common foundations. Namely, when looking at their ethnic, social and cultural origins, they all are Serbian citizens. Minorities should have their rights, and should not only point at differences. If they want to integrate and have a role, they must have also obligations, for instance, knowledge of the Serbian language.” (representative of an international organization)

This group of respondents – NMC members – think that the NMCs lacks capacities for a successful realization of their scope of responsibilities.

Representatives of institutions at the national and local level hold the view that NMCs should be partners of a State focused upon needs and problems of citizens and upon raising awareness of the needs of the members of the minority and majority communities; national minorities should cooperate among themselves, first of all by adopting good practices. These respondents think that the primary role of the NMCs is to deal with burning problems of their own community, i.e. consolidate the community around common interest of the given national minority.

Representatives of kin-states of national minorities assess the national councils as very important for the promotion of the position of national minorities in Serbia. They stress that NMCs have no exclusive right to represent the national minority, they are only one of the institution of the national minority, and that all other institutions relevant for the preservation of the minority’s identity (schools, church, various institutions in the field of culture) are equal partners of the kin-state. Pluralism of entities in cooperation between the kin-state and the minority community is mentioned as very important. As regards the capacities of NMCs to represent the interests of the community, it is said that certain among them do not have the necessary capacities (in terms of staff and expertise), and have a weak influence due to lack of clear mechanisms for conduct in situations when the relevant institutions do not implement the decisions and initiatives of NMCs. In order to remove these deficiencies it is recommended to harmonize the regulations and mechanisms which would ensure the implementation of NMC acts. Representatives of kin-states expect the NMCs to primarily focus on the promotion of a minimum of common interests of the minority community and on their representation in the public and before institutions.

Assessment: inadequate

Expectations from NMCs are in accordance with the actual legal and institutional framework and are to the greatest extent oriented toward a model of cultural autonomy. Representatives of state institutions see the NMC as a consultative mechanism particularly in regard to the realization of rights to cultural autonomy. On the other hand, representatives of

state institutions expect the NMCs to act more in the direction of possibilities set forth by law. The NMCs are perceived as a body of cultural autonomy also by members of national minority councils. Non-members think that councils of national minorities must be minority self-government bodies. This thesis is supported first of all by non-members in central Serbia (Albanians and Bosniaks). As regards the budgets, the standpoint is that they should increase, according to some expectations as much as three times.

4. Representation

Elections for national minority councils are regulated by the Law on National Minority Councils, Article 30³. “Elections for the national council are based upon principles of freedom of choice, equality of electoral norms, periodical elections and secret voting”⁴. Mandates of national councils expired in summer of 2014, elections were held on 26 October 2014, and they were constituted by December 2014.

According to the turnout at the most recent elections for national minority councils⁵ the national councils enjoy support of less than half of those listed in the separate voter list. According to official data of the Republic Electoral Commission, the biggest turnout was that of the Bulgarian national minority (66.21%), then the Romanian national minority (41.5%), Hungarian national minority (40.3%), Albanian national minority (40.3%), Bosniak national minority (35.7%), Slovak national minority (31%)⁶.

The fact that ruling political parties, either majority ones or those of national minorities, gave their support to existing electoral lists or participated in the formation of new ones, which won the majority at elections, shows that in terms of functioning the councils shall further on be under strong influence of parts of their national communities who are politically organized. The general standpoint of respondents is that the NMCs should be genuine advocates of the interest of the minority community, but that in practice they represent the interests of a certain political party or grouping which leads the national minority council.

“I, too, am a representative of a political party, we cannot distance ourselves from this, and get above daily politics. Here, and in the world, there were situations in which members from other

³ http://www.paragraf.rs/propisi/zakon_o_nacionalnim_savetima_nacionalnih_manjina.html

⁴Particular principles for election of national minority councils are volunteerism, proportionality and democracy”. For these elections the line ministry (Ministry of Public administration and Local Self-Government) shall form a separate voter list which must have support of “at least 5% of adult members of the national minority according to the most recent population census, and their number must not be below 300”. Voters are registered in this list “exclusively upon personal request” (Article 47). The Law proscribes “using data from the separate voter list, except for the purpose of elections and for the purpose of realization of other rights of national minorities, if so stipulated by law” (Article 51).

⁵Elections for the national minority councils were held on 26 October 2014.

⁶ http://www.rik.parlament.gov.rs/cirilica/propisi_frames.htm

political options do not want to participate in the work, not because of some crucial problem, but because there is no mutual political agreement.” (member of the Bulgarian National Council)

Certain interviewed non-members of NMCs think that it is necessary to change the election system for the general and local elections – from the present proportionate one to a majority one – so that citizens would vote for a representative from their territory (town or region). This is of particular importance for minorities which are territorially spread out and where there is a possibility that the “central”⁷ municipality, or the part in which the national minority is concentrated, shall be more represented, and thus disrupt the level of representation of the community.

“First it is necessary to change the way in which the national councils are elected, now they are elected like the members of parliament, the vote is given for a list, and behind these lists hidden are usually parties of certain national minorities, so that here no quality is gained, and on the other hand the state must change its attitude towards these national councils so that they are not used by ruling parties in their relations with certain parties of national minorities.”(non-member of the consultative mechanism, Bosniak national minority).

All respondents identify the geographical spread out of the national minority as the factor which influences the reduction of representation. Respondents from among the members of national minority councils say that the establishment of regional offices, beyond the seat of NMCs, have proven to be a successful mechanism for the solution of this problem.

As regards gender representation, the legal provision according to which the lists must have 30% of females is respected, but this is no guarantee that women will have genuine influence upon the work of the council.

Assessment: Adequate

Respondents, non-members of NMC, think that the method and procedure for elections for the NMCs does not guarantee representation. Respondents justify this: first, registration of voters in a separate list is voluntary, which reduces the number of voters; second, local self-governments which conduct the elections are controlled by ruling political parties, which favour their own lists for the election to the national minority council, and this is done particularly through the financing of the election campaign; third, election for professional bodies is based on political and not professional criteria. Respondents from both groups (members and non-members of NMCs) think that minority and majority political parties have big influence upon the work of NMCs and that this has a negative impact upon the representation in these institutions.

5. Communication

⁷ This implies one or more municipalities or towns with the highest percentage of members of a national minority.

The basic role of the NMC is to work in the interests of the minority community which it represents, in accordance with the scope of its responsibilities. The NMCs communicate with members of the minority community they represent, the state bodies, the National Assembly of the Republic of Serbia and the Assembly of AP Vojvodina, the local self-government units, institutions which they had established, other national councils and the interested public.

NMC communicates directly with the members of the minority community – through the office which is open for the citizens, by phone or indirectly, through internet presentations where news, statements or documents related to the work of the council (minutes, notes addressed to institutions, correspondence with institutions, etc.) can be found. The general objection in regard to communication of NMC with citizens is insufficient frequency of direct contact and the fact that effects of the council's work upon everyday life of members of the minority community is not recognized. Part of the respondents from among the minority community have serious critical remarks regarding the work and functioning of NMC because they think that these bodies primarily do not represent the interest of the entire minority community, but rather that of the dominant political grouping which is governing the NMC. These same group of respondents warns that the work of NMCs is not sufficiently visible to the minority community it represents.

Respondents, members of NMC which represent the territorially dispersed minority communities, mention local/regional offices as a mechanism which positively influences representation in the NMC and enables easier information regarding the work of the council as well as an opportunity for the citizens to directly address the representatives of the council with their questions and dilemmas which are related to the NMC's scope of responsibility.

As regards international cooperation and coordination of national councils, and particularly as regards the relation with bodies at the national, provincial and local levels, the Law on National Minority Councils is not precise. According to the Law, NMCs may individually address the state bodies with their proposal and opinions. According to the Law, these bodies are obliged to ask for the opinion of national councils when they decide on issues within the scope of responsibilities of national councils, but the Law left it to these bodies to regulate the procedure for obtaining these opinions through their rules of procedure. A significant role in the cooperation between the NMC and bodies of the Republic may have the Council of the Republic of Serbia for national minorities. This body could, apart from the scope of responsibilities provided for by the Regulation by which it was established, harmonize minority policies between the Government and representatives of the minority community and regularly inform the public on the significance of enhancing relations between the minorities and the majority.

Cooperation and communication between the national councils themselves is not sufficiently developed although there is room for association and joint performance. A significant step in this regard is the work of the informal body called Coordination of National

Councils, through which the councils get information and where common standpoints are harmonized, particularly in regard to state bodies. This coordination is not institutionalized, and the Coordination is not a category in the law and it has no authorities. It is essential to emphasize that respondents which are members of NMCs mentioned this body as a successful mechanism for the unified appearance of the NMCs before state bodies and for solving these issues which are common to all national minorities.

Assessment: Inadequate

Research findings have shown that the citizens of Serbia, both members of minorities and those from majority community, are not familiar enough with NMC, their responsibilities, nor with the work they do or the results they achieve. It is necessary to improve communication at all levels: between NMC and members of minority communities they represent, between NMC and public administration (national, provincial and local level), between the national councils themselves, as well as NMC's communication with the general public. It is necessary to ensure greater representativeness of the NMC by including persons belonging to national minorities from among experts, civil society, entrepreneurs and religious organizations. Cooperation and communication between NMC and public administration can be improved by establishing a continuous dialogue with representatives of national minorities through the existing Council for National Minorities of the Republic of Serbia. Some progress has been achieved in communication between NMCs themselves through the establishment of the Coordination and it would be necessary to set up conditions for this body to be legally regulated. State authorities, in cooperation with NMC, must continuously monitor the implementation of the law and providing information to the public regarding implementation should become an integral part of the practice and legal culture of all those involved in the implementation of law, as well as the media and non-governmental organizations in the Republic of Serbia.

6. Effectiveness

According to research by the Provincial Ombudsman, the NMCs were not notably active in submitting initiatives at proposed laws and regulations. The NMCs based in Vojvodina have put forward slightly more initiatives in the field of education, culture and official use of language, which were accepted in most cases. The aforementioned study shows a low number of instituted proceedings in respect of violation of rights and freedoms of persons belonging to national minorities before competent institutions⁸, most of which were almost exclusively instituted by the NMC based in Vojvodina. The practice of nominating representatives to local consultative bodies – Council for Interethnic Relations was also more pronounced in Vojvodina. It is important to note that only the Hungarian and Slovak national minorities have partially

⁸ This refers to the Constitutional Court of Serbia, the Protector of Citizens (Ombudsman), Provincial Ombudsman and the Municipal Ombudsman. The Protector of Citizens of the Republic of Serbia is the institution that the councils of national minorities addressed the most.

transferred the founding rights over the institutions of special interest to their national councils

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Statistics from the research of the Provincial Ombudsman's show that the National Council of the Hungarian national minority is the most active in giving opinions and proposing candidates for management bodies and directors in the appointment and replacement processes. Generally, other NMCs based on the territory of Vojvodina are also active in this field.¹⁰

So far, presented findings unequivocally show two tendencies. First, that NMC are most active in the field of education where they achieve most results. Second, NMC based on the territory of Vojvodina are significantly more active compared to those in central Serbia.

A similar situation is in the field of culture. Seven NMC (Egyptian, Ruthenian, Slovak, Bunjevci, German, Hungarian and Croatian) out of twenty, have assumed founding rights or are co-founders in cultural institutions. Ten NMC stated that they have determined institutions of special importance for the preservation and promotion of the development of individual national identities. A type of a list of movable and immovable cultural goods was prepared by national councils of the Hungarian and Czech national minorities.

NMC were passive in regard to the exercise of rights in the area of information in minority languages, noting that the situation is incomparably better in Vojvodina¹¹. A worrying fact is that NMC did not give opinions and proposals to the Council of the Republic Broadcasting Agency (RRA) with respect to information in the languages of national minorities, nor did it

⁹ National Council of the Hungarian national minority partly assumed founding rights in eight secondary schools, while the National Council of the Slovak national minority did it at one secondary school a student dormitory. Consent to the prior approval of the use of textbooks and teaching aids was given by six national councils (Slovak, Macedonian, Czech, Vlach, Ukrainian and Ruthenian), while proposals for the approval of import of textbooks from mother countries were given by five national minorities (Albanian, Ruthenian, Slovak, Ukrainian, Czech). Authorization to support to the joint candidate for the National Education Council was given by five national councils (Macedonian, Romanian, Ruthenian, Czech, and Hungarian).

¹⁰ An example of a negative attitude towards the activities of national councils of national minorities is Presevo municipality that in the first two years in office did not send requests to propose a member of the municipal council who would be appointed by the National Council of Albanians.

¹¹ According to the Provincial public protector, seven national councils have independently established institutions and/or companies in the field of journalism and publishing (Croatian, Bulgarian, Albanian, Hungarian, Ukrainian and Bunjevci), while the Macedonian National Council is a co-founder with the province of Vojvodina, and Hungarian National Council has established two institutions / companies. Croatian and Romanian national councils gave their opinion in the selection of members of the management and programming boards of the Public Broadcasting Institution of Serbia, while the national councils of the Hungarian, Croatian and Romanian minorities stated that they gave opinion in the selection of directors of the Public Broadcasting Institution of Serbia. In selecting the managing and programming boards the Director-General of the Public Broadcasting Institution of Vojvodina, opinions were provided the National Council of Macedonians, Croats, Romanians, Hungarians and Ruthenians. The National Councils of Croats and Slovaks gave an opinion in the selection of candidate for the editor of programming in the languages of national minorities in the broadcasting institution. Croatian National Council did not propose anyone, and the Slovaks did not support the proposal. No national council was able to establish the criteria for the selection of the responsible programming editor for minority language.

appoint a representative to the RRA, which has the right to participate without voting rights on issues related to information in minority languages.

The official use of language and alphabet is a guaranteed right enjoyed by ten national minorities¹² of which six has decided on establishing traditional names of units of local self-government (Hungarians, Albanians, Macedonians, Croats, Slovaks, Bulgarians). The same NMC brought a decision on traditional names of institutions.

During most talks with the members of national councils, the introduction of languages in the education system, as well as finding different ways of providing necessary textbooks with or without effective support from the state, namely the ministry in charge of education, has been in characterized as one of the major successes. This assessment is shared both by members of councils seated in Vojvodina and those in the rest of Serbia, noting that the situation in Vojvodina is noticeably better, because NMC in other parts of Serbia still face challenges related to the introduction of minority languages in the school system. In the case of the Bosniak national minority, the Bosnian language was introduced as an optional school subject, of which the student's grade is not included in the total grade point average, thereby discouraging students to select this subject.

“Only in Serbia the practice of experimental school subject and a technical mandate exists¹³. It used to be an experimental school subject, and you wanna know what is it now? A numeric grade that does not count into the GPA. What's the stimulus to take that subject? None! I can grade a student with 0 or 10, it will not affect their GPA.” (non-member of the Bosniak National Council)

In case of the Albanian national minority there is a serious problem of lack of textbooks for primary and secondary education. In the central part of Serbia the problem is the lack of teachers, which is particularly pronounced in the Vlach national minority. Instead of university education for teachers, education/training is based on staff-level courses conducted by the Vlach NMC and civil society organizations with the support of the ministry responsible for education.

According to some research participants, the teacher accreditation process conducted by the Vlach NMC, an institution competent and professionally trained for this procedure, is quite dubious. Counter example is the Bulgarian NMC, which began to address the issue of lack of teaching staff for Bulgarian language by establishing cooperation with the academic community in Bulgaria, and by organizing teacher education programs in Bulgarian language.

Respondents from among the Albanian ethnic minority cited the reduction of already scarce resources allocated for financing Albanian NMC as the main issue. The reduction in resources is due to the boycott of the 2011 census by the Albanian national community official

¹² This right have Hungarians, Albanians, Romanians, Russians, Slovaks, Bulgarians, Czechs, Croats, Macedonians, Bosniaks and Montenegrins)

¹³ This refers to a “technical mandate” of the Bosniak NMC.

census in 2011, because part of the funds allocated to the council based on the Regulation on financing is calculated proportionally according to the size of national minority represented by the council.

“Unfortunately, for the second consecutive year, the National Council of the Albanian minority is financed by 30 percent - one-third is calculated by the number of minority members, one-third based on programs – projects, and one-third is divided equally among everyone. And that one-third of the 61.647 Albanians from the 2002 Census are now reduced to 5.800, which expressed in RSD is a reduction of 5 - 6 million. Should this be applied, according to the law, to local self-governments, Presevo municipality, according to that report, has 3.000 of inhabitants, and in 2002 it had 35.000, and if this is to be applied it would amount to RSD 200 million less. ”(non-member of the National Council of Albanians)

Representatives of the Albanian national minority have indicated that there is still a problem with the official use of the Albanian language in public administration and courts. Research participants of the Bosniak national minority cited the introduction of the Bosnian language in the school system as a problem. They pointed out that there are schools where it is not possible to start classes in the Bosnian language and in some schools offer it as an optional class.

Representatives of NMC cited the establishment of institutions and assumption of founding rights in whole or in part in institutions that are of importance for the national minority as the most significant successes, along with the adoption of eight strategies (education, culture, information, the official use of language, demographics)¹⁴.

During the interview, the National Council of the Croat national minority indicated the improvement of transparency as their most significant result, i.e. the realization of the need for coherent operation and adequate system of recording and monitoring activities. Representatives of the Bulgarian national Council cite transparency as an important result they have achieved.

A different perspective have members of the national minorities who are not members of the Council and who object to the NMC’s lack of transparency, the absence of accountability for the results, the absence of inclusion of the community in the council’s activities, and also on the defensive relation towards decision-makers primarily on the national level, linking it with the fact that a large number of active representatives of the Council are members of the ruling parties

¹⁴ Representatives of the Hungarian National Council cite as a significant result the system of scholarships for 1,000 students received annually from Hungary as a mother country for education in Serbia. A similar result was stated by representatives of the Romanian National Council, noting that they had a relatively negative effect; because a significant number of the 150 students receive this type of support annually do not return to Serbia, affecting the number of staff of the Romanian national minority.

from among members of national minorities. This is especially true with respect to members of minorities in areas that are not defined by responsibilities of the national councils. Thus, the representatives of the Bosniak national minority mentioned the problem of employment in institutions at the local level where the percentage of Bosniak employees is disproportionate to the percentage of the population in “Sandzak” municipalities, and that there is an "import" of employees from municipalities and cities outside of “Sandzak”.

“Imagine this – there are numerous registered medical workers at the employment bureau in Novi Pazar, and we bring in medical workers from other municipalities, such as Raska, Kraljevo, Leposavic. Think of it, it's a tragedy. Who's to blame here? ... Nobody but the local self-government. The government has allowed it. The State has this excellent apparatus through which allows all this to go on, and that is the local government. ” (non-member of the Bosniak National Council)

Responders from the Albanian national minority point to the same issue, whether they are members of the National Council of Albanians or not. Most non-members of the Council have stated that a type of “festivalization” of the national councils’ operations is at play, meaning that the already scarce funds are spent on organizing festivals which, in their opinion, do not produce desired effects.

The interviewed representatives of institutions that are responsible for working with NMC pointed out that there is unequal implementation of the NMC activities, and that some, in accordance to their number and capacity, have consciously opted for one out of four defined areas of competence, and that these are primarily related to culture and education. According to these responders, the National Council of the Hungarian national minority stands out in all areas as a consequence of their competencies, human resources, expertise and experience.

Research participants from the Ministry of Education pointed out that the greatest success of the national councils is their contribution to the preservation of specificity in language, culture, education. The ministry pointed out that the NMC of Slovaks is very active because it provides numerous suggestions and proposals. Office for Human and Minority Rights of the Government of the Republic of Serbia has stated that the greatest progress has been made in education through the introduction of the mother tongue classes with elements of national culture. Representatives of institutions singled out the following as the main achievements of the NMC: accreditation of programs in education, training program for minority languages to teachers who hold their classes in minority languages and setting up of bilingual boards in municipalities where more than 15% of the population are members of a minority. The same group of respondents indicated that NMC were not active enough in solving the issue of registration of members of national minorities in the registers (the issue of transcription of

names) and that not everyone has partaken equally in organizing training for public administration staff in writing in a minority language.

Representatives of the Provincial Ombudsman stated that in most cases the official use of language is limited to bilingual signs and issuance of certain types of documents, while a number of other possibilities are not being utilized (e.g. the possibility of filing tax returns).

Respondents who belong to the group of representatives of institutions assessed that there has been an improvement in the transparency of work of the national councils of national minorities.

An example of good practice when it comes to government institutions are the statistics of the Provincial Department of Education, which provides an updated overview of the syllabus in minority languages for each school in the territory of Vojvodina. According to a representative of the Ministry of Education this model will serve as a model for creating spreadsheets to keep track of teaching in minority languages and the number of students who attend classes in the minority language or learn their mother tongue with elements of national culture. However, a major problem is the negative effect of the division of schools by ethnicity of children in multiethnic environments because it leads to the creation of ethnic ghettos.

The process of transparency in the work of the national councils was promoted as the competent ministry monitors the spending of financial resources. Research participants indicated that they are not practiced and do not know the evaluation procedure for effectiveness of work of the NMC, although they are aware of its necessity. Currently financing activities and financial operations are monitored by the competent ministry, although this area is not adequately legally regulated. The consequence of legal gaps is that the law does not regulate the financial control of national councils since they are neither directly nor indirectly budget users, which prevents the control of the State Audit Institution.

Assessment: Inadequate

Adopted law is being applied¹⁵. The largest effects of the work of NMCs are recorded in the areas of culture and education, while fewer results were achieved in the field of information and official use of language and alphabet. Insufficient work efficiency and weak performance results of NMCs lead to the creation of two factions within the national minorities: one that is generally satisfied with the current situation and assess the work of the council as good under the circumstances (this group includes mostly members of the national councils) and the other that is not satisfied neither with the current state nor with the work of councils, and advocates for

¹⁵ An exception is the inability to constitute the National Council of the Bosniak national minority due to procedural flaws and violations of laws by the Ministry for Human and Minority Rights, which has resulted in the continued operation of the old Council in the so-called "technical mandate" until elections in October 2014.

changes toward increasing the competences of the council of national minorities (this group includes mainly non-members).

7. Influence

In this analysis, the word "influence" refers to the power of NMCs, which stems from their statutory status, the capacity as well as willingness to take actions (through proposing and initiating) to exercise their jurisdiction, carry out activities and achieve goals, based on the Constitution of the Republic of Serbia and respective laws¹⁶.

Research participants from among members and non-members of the NMC were unanimous in their opinion that the decision of the Constitutional Court of the Republic of Serbia reduces the impact of national councils and stoops them to the level of a body without relevant administrative and executive capacities, especially in the field of information. Non-members of the national councils of national minorities see the NMC as an advisory body, because there is no form of sanctions for public authorities in case of nonobservance of the council's decision.

Research participants from among members and non-members of national councils agree that national councils do not have sufficient influence to exercise legally guaranteed rights of national minorities.

“We have a situation that national councils do not have jurisdiction, no powers granted to them, starting from not being defined in the Constitution and the law, whether they are NGOs, advisory or executive bodies (non-member of the Bosniak National Council).”

The lack of influence leads to some state institutions and political organizations assuming the functions of the NMC. The lack of impact of the NMC, on its part, leads to the growth of ethnic intolerance and extremism.

“As for the Bosniak National Council, the problem goes a little deeper – there is Belgrade on one side, saying that everything's perfect and very pronounced national circles that often relapse

¹⁶ To analyze the impact of national councils, a research conducted by the Provincial Ombudsman is very important because it shows two things. First, there are relatively positive results when it comes to the number of accepted proposals and suggestions by the national councils primarily in the fields of education and culture, while the national councils were passive in the field of media/information (there was an increase in this area in the last two years (2012-2014)). Second, the national council of the Hungarian national minority has the strongest power to make/give proposals, and thus the potential impact associated with the capacity of the community itself, followed by the Romanian, Croatian and Bunjevac minorities. And this creates the division, which indicates that national minority councils based in Vojvodina have a greater volume of proposals and opinions. Disrespect and disregard for the competence of national councils of national minorities is evident in the rest of Serbia, and in particular Presevo and Bujanovac municipalities.

into chauvinism on the other side, with obstruction coming from both sides (non-member of the Bosniak National Council).

The research points out that in order to enhance the impact of the NMC, members and non-members of the council feel that the Republic of Serbia should recognize the benefits that members of national minorities and society as a whole yield from the NMC. The Republic of Serbia should show its responsible attitude towards the rights of national minorities by establishing a permanent Ministry for Human and Minority Rights.

The research recognized the bodies of AP Vojvodina as cooperative. For example, respondents point out that representatives of provincial authorities have never organized a meeting on the topic of interest to national minorities, including with representatives of mother countries, without NMC representatives being present.

The issue of the impact on the implementation of law is also visible at the local level in central Serbia, where the laws governing the rights of minorities are violated without impunity.

“For example, the city authorities in Niš formed a committee for human rights. They put a man belonging to the Bulgarian minority without anyone consulting us in an official capacity (representative of the Bulgarian National Council).

Most respondents from the national councils as well as non-members feel that the current legal framework provides for a greater influence of large and better organized national councils. Respondents are united in the assessment that the National Council of the Hungarian national minority is the most influential national council.

„Essentially, the Law on National Minorities practically favors the Hungarian and to some extent Bosniak national minority”. (non-member of the Vlach National Council).

Interviewed members of the council pointed out that Coordination of the national councils as an instrument of influence on decision-making is gaining in importance.

“I feel that Coordination in general is necessary because it is a much more effective solution to any problems that are officially referred to the ministry. It is an experience; for example, a year ago there was a need to finance low circulation minority textbooks, and 9 national councils applied, the problem was being solved (representative of the National Council of the Slovak national minority)“

Research participants from among members and non-members of the national council stressed that the influence of a national council is affected by the stance and actions of the “kin-state”:*„It all depends which “kin-state” is behind that ethnic minority. Minorities who have the support of their “kin-states” have better position in everything, even in the speed of implementation of the law (non-member of the Bosniak National Council).* However, in some

cases respondents expressed the view that: *“the “kin-state” sees them as a field in diplomatic relations with Serbia (representative of the Croatian National Council)”*

Assessment of the cooperation with the state is generally satisfactory, because NMC regularly receive answers to opinions and suggestions on decisions and proposals that fall under the jurisdiction of the national councils. The problem is an inadequate timeframe because certain decisions require sessions of the executive committee of the national council, which cannot be convened quickly enough, so the practice of telephone sessions is required. However, in order to improve the negotiation power and influence, the Coordination was formed which is an informal body with insufficient capacity to respond to those needs that are foreseen for the Government Council for National Minorities.

“At the level of national councils there is so-called work coordination of the national councils, which includes all representatives of national councils, and this was our idea from the beginning of the formation in 2003. We concluded that we are stronger together and that we can more easily establish cooperation with state authorities. In all these years, coordination, as an informal body, functioned relatively well and this is recognized by the national law on national councils which contains certain legal solutions by which national councils propose one member, for example to the national council for culture and education i.e. The National Education Council (representative of the Romanian National Council).”

Representatives of state institutions have assessed that there is a significant impact of NMCs and this is reflected in the ability to make proposals and suggestions. Also, there is awareness that there is room to improve the real power of NMCs in the part related to the implementation of decisions and sanctions for those who do not wish to implement those decisions. Important aspects of the impact are the capacities of the NMCs themselves. An example is the National Council of the Hungarian national minority which, in addition to regular state aid assistance is supported by the Hungarian private sector of its mother country, as well as income from their activities. As a factor of influence of NMCs is the history of organization and activities in the areas under their competence. Therefore, minority communities with a longer history of operation have a greater impact, because they have the experience and skills to represent their rights and greater capacity for organization and action. So it is not surprising that one of the barriers to a greater influence of NMCs is due to lack of skilled personnel in institutions. For example, a large number of qualified persons within the council who could work on the publishing of textbooks should also be qualified to give comments on the proposals related to textbooks and curricula.

Respondents from among the members of state institutions consider that the greatest influence of the NMCs is in the field of education and culture, while the obstacle to achieving a greater influence is primarily seen in insufficient funds provided by the state to the national councils. Therefore, the impact of national councils is reduced to pointing out to a problem without the capacity to use real mechanisms for solving them.

Assessment: Inadequate

The lack of legal guarantees for the implementation of decisions of NMCs or the absence of sanctions in case of violation of legal obligation of implementation of the proposed measures. This has allowed the emergence of informal consultation channels (of personal or political character) affecting the legitimacy and influence of NMCs. This is also contributed by low budget resources and lack of skilled personnel in NMCs. Criticisms toward NMCs are directed toward their weak influence and dependence on the political parties of minorities as well as those of the majority.

8. State support

Responsibilities related to work of NMCs are divided between the Ministry of State Administration and Local Self- Government in charge of elections for national councils, maintaining a separate register of voters and maintaining a register of national councils, as well as supervision over the implementation of law, and the Office for Human and Minority Rights, which is responsible for financing the work of councils.

Office for Human and Minority Rights, in cooperation with relevant ministries monitors the implementation of responsibilities of the council in the field of education, culture, media and especially the official use of language and alphabet. Responsibilities of the Office also involve monitoring and implementation of international agreements in the field of minority rights; monitoring compliance of national legislation with international treaties and other international instruments on minority rights and initiating changes of local regulations, as well as preparing reports on the implementation of international agreements in the field of minority rights.

Representatives of the Office for Human and Minority Rights primarily see that institution as an institution which helps the implementation of the legally guaranteed collective rights of national minorities and as an institution that links representatives of the national councils and relevant ministries.

At the level of general support to the work of national minority councils, remarks by the minority representatives concern the constitutional provisions that define Serbia as a state of Serbian people and all citizens who live in it¹⁷. It is precisely this provision that individual research participants from “Sandzak” and southern Serbia interpret as being placed in a position of "second class citizens".

The funds for the financing of national councils are provided from the budget of the Republic of Serbia, the budget of the Autonomous Province of Vojvodina and budgets of local

¹⁷ “Republic of Serbia is a state of Serbian people and all citizens who live in it, based on the rule of law and social justice, principles of civil democracy, human and minority rights and freedoms, and commitment to European principles and values.”, Article.1, *The Constitution of the Republic of Serbia*, Internet: http://www.parlament.gov.rs/upload/documents/Ustav_Srbije_pdf.pdf

self-government units, donations and financial support from mother countries and other income.¹⁸

Financial support for the work of NMCs is regulated by the "Law on National Councils" and "Regulation on the allocation of funds from the budget of the Republic of Serbia for the financing of national councils of national minorities" (Official Gazette of RS, no 95/2010). The funds may be used for funding the expenditures pertaining to: The first group of expenditures includes regular operations of a national council and entails the following: a) financing of programmes and projects in the fields defined by the law; b) costs associated with renting and occupation of premises; c) wages, taxes and social security contributions of employees; Second group of expenditures concerns operations of institutions, foundations, business organizations and other organizations founded or co-founded by a national council.¹⁹

The amount of funds from public sources secured for the funding of operations of national councils are determined for each year by the Law on Budget of the Republic of Serbia and decisions on the budget of AP Vojvodina and local self-government units. Allocation of resources is carried out as follows - 30% is distributed to all registered national councils in equal amounts, 35% in proportion to the number of members, and the remaining 35% based on the total number of institutions of a minority in the fields of culture, education, information and free use of language and alphabet and in accordance with the scope of activities of these institutions. Such a formula for calculating the amount of funding is applied in AP Vojvodina and takes into account criteria such as the size of minority population and the number of institutions that were established by national councils or over which the national councils have assumed founding rights.

The amount of funds allocated from the budget of the Republic of Serbia in 2013 amounted to RSD 240 million²⁰ (at the then applicable rate of around EUR 2.447.772), and RSD 250 million in 2014. The 2014 budget of AP Vojvodina envisages the allocation of RSD 75 million for operations of national councils²¹, while in 2013 a total of RSD 55,365 million was allocated²². Support for the operations of NMCs from the budgets of local self-governments is unsystematic, sporadic and is not carried out by all local self-governments. The remarks concerning financial support for the operations of NMC from local budgets are subject to criticism from representative bodies and members of national councils, emphasizing that the allocation criteria and the amount of funds are not legally regulated, leaving a large gap for

¹⁸ Law on National Councils of National Minorities, Article 113, Internet:

<http://www.ljudskaprava.gov.rs/index.php/ljudska-prava/propisi>

¹⁹ Ibidem

²⁰ <http://www.ljudskaprava.gov.rs/index.php/yu/vesti-l/124-finansiranje-rada-nacionalnih-saveta-u-2013>

²¹ <http://www.psf.vojvodina.gov.rs/PRECISCEN%20REBALANS%20za%20objavljivanje.pdf>

²² <http://www.psf.vojvodina.gov.rs/Pokrajinska%20skupstinska%20odluka%20o%20završnom%20racunu%20budžeta%20APV%20za%202013.%20godinu.pdf>

making arbitrary decisions. The Office for Human and Minority Rights pointed out that current regulations recognize the obligation to allocate funds to NMC, but it is necessary to amend the legislation in terms of determining the mandatory percentage of the budget to be allocated. Local self-governments where members of minority form more than 10% of the total population, or where languages of national minorities are in official use have a legal obligation to allocate funds for NMC. This inconsistent application of regulations implies that everyone, even symbolic allocation for local self-governments can be considered as fulfilling the legal obligation, which ridicules the intent of this regulation. Another problem that follows expenditures from local budgets is the absence of control. The Ministry of State Administration and Local Self-Government is competent to monitor the operations and activities of national councils, but there is no legal provision that determines who monitors the implementation of the other provisions of the law. In this regard, Administrative Inspectorate of the Ministry is cited as a possible competent body which has so far failed to react. Findings of the Office of Human and Minority Rights showed that allocation of funds for the councils of national minorities is not practiced in a number of local self-governments.

Representatives of NMCs as well as non-members of consultative mechanisms have warned about the inequality in the status and working conditions in favor of the councils based in AP Vojvodina, which in addition to funds from the budget of the Republic of Serbia receive funds from the budget of the Autonomous Province. Almost all respondents see the amount of funds as insufficient for operations, noting that they are aware of the difficult economic situation and its influence on the amount of funds allocated to support NCMs. Difficult economic situation affecting a large part of Serbia's citizens, regardless of their nationality, is emphasized by representatives of institutions as the reason for reduced financial support to NCMs, concluding that minorities share the fate of the majority population.

Some members of NCMs have stated that the funding criteria created a phenomenon of establishing "phantom" institutions. In fact, the very criteria for providing financial support are favorable to those NMCs that have founded several institutions, leading to some NMCs establishing institutions primarily in the field of culture that exist only formally, in order to push for a greater budget.

The 2011 census, which was boycotted by the Albanian national minority, resulted in the reduction of budget funds for the National Council of the Albanian national minority, because the reduction in the recorded number of Albanian citizens reduced the number of council members from 35 to 19, leading to less money being allocated for this NMC. Representatives of local institutions and non-members of the NMC, stated that there is no will on the part of the authorities to find an alternative solution in a form of annual estimates of the population in this area or the use of data from a separate register of voters, which requires for the law to be amended. In some cases, local self-governments (municipality of Presevo) do not fulfill the

obligation to provide funds to the NMC. There are two reasons for this. First, the lack of resources in the budget of the local self-government, because it is an economically underdeveloped part of Serbia, and the other reason are party conflicts that are reflected in the fact that the ruling coalition in Presevo municipality did not support the establishment and operation of the NMC in its first session.

Since the position of NMCs is not properly defined and regulated by law, this puts these institutions in the group of "undefined budget users", i.e. they are neither direct nor indirect budget users.

Therefore, these institutions are not subject to the State Audit Institution, nor does the Integrity Plan – an anti-corruption instrument that affects the transparency of work, human resources, management and finance, as defined by the Law on the Agency for Combating Corruption, applies to them. If the NMCs became subjects to the above two mechanisms, that would greatly contribute to the transparency and efficiency of these institutions. According to representatives of NMCs, financial aid should also be increased three to four times.

When it comes to giving support for strengthening the capacity of NMCs, opinions of NMC members and those of state institutions are contradictory. Representatives of the Office for Human and Minority Rights stated that numerous seminars and trainings on the councils' competencies and their application were held, while some councils stated that no trainings were organized, and that they were simply given the legal framework without any instructions. Terminology seminars are cited as a positive example of the support to capacity-building, referring to the official use of language and alphabet where translators and experts of the Provincial Secretariat organized seminars for employees in administration and judiciary. Also, support was also provided for the translation of the legislative framework in the languages of national minorities (e.g. translation of the Law on National Councils of National Minorities, the Law against Discrimination, the Constitution of the Republic of Serbia, etc.). In addition to direct financial support, the government has provided technical support for the operation NMCs, such as the provision of computer equipment, supplying office space in certain municipalities (for example in Bujanovac), or in a few cases exemption from payment of utility costs.

Respondents from a group of NMC members have different perceptions when it comes to government support to these institutions. Members of NMCs registered on the territory of AP Vojvodina perceive the support as honest and rooted in the system for decades, while representatives from NMC Sandzak and southern Serbia indicate that the support provided by the public administration is more conditioned by commitments than honest intention.

Committee for Human and Minority Rights and Gender Equality of the National Assembly of the Republic of Serbia is planning a meeting with the newly formed councils to identify shortcomings in the existing law on NMCs, and propose measures that will allow adequate legal

framework for the operation of councils (control of funding, increased competence, acting in line with decisions of the Constitutional Court, criteria for determining institutions of special interest, etc.).

One of the positive examples which is not strictly related to the statutory support for the work of national councils, but whose work has positive effects on the status and quality of life of minority population is the Coordinating Body for the Municipalities of Bujanovac, Presevo and Medvedja of the Government of the Republic of Serbia. By funding infrastructure projects, this body greatly affects the improvement of the quality of life - an opinion shared by both representatives of local self-governments, as well as representatives of the Albanian minority in southern Serbia.

In the opinion of representatives of state institutions, one of the systemic problems in Serbia, when it comes to legislation, is the existence of a negative practice by which newly adopted laws or amendments to legislation in the areas related to the competency contain an indication that their implementation will be regulated at a later date by means of regulation or decision of competent ministers within a specified period, thus delaying or preventing their application. This timeframe is sometimes extended due to changes in the ministries, making the application of the law more difficult. This is particularly true in the area of school classes in minority languages, especially in the territory of “Sandzak” and organizing classes in the Bosnian language, where due to the lack of guidelines a number of school principals hinder the introduction of those classes. It is also necessary to amend the Law on Textbooks and Other Teaching Materials and provide appropriate bylaws to secure financial resources for NMCs to carry out their competences in the process of approving and publishing of textbooks in minority languages.

Assessment: adequate

Budget support for operations of the NMCs is regulated by the Law on National Minorities; funding criteria are as follows: number of minority communities (official census data) and the number of institutions founded by NMCs. The actual amount allocated for councils’ operations is defined by the Law on Budget Law for each year. In the period 2010 – 2013 the amount of funds stagnated or only slightly increased.

From the perspective of representatives of national councils and non-members of consultative mechanisms, financial support is assessed as insufficient, with the awareness of the difficult economic situation in the country and the inability to significantly increase this amount. So far, the support to minority communities through the councils of national minorities contributed to the improvement of their situation, especially when it comes to culture, and somewhat less in the other three areas (education, information and official use of language and alphabet). The main cause of the inefficiency of the state support is unanimously seen in the lack of implementation

of regulations due to their discrepancies as well as their application based on arbitrary opinions or interpretations by the relevant authorities.

9. Relations with „kin-states”

There are several ways by which a "kin-state" can provide official support to a national minority living in Serbia: first, by signing bilateral or multilateral agreements; second, through cooperation of the relevant ministry and the embassy of the "kin-state" with the competent authorities of the Republic of Serbia. An example of this type of cooperation is the cooperation between the Ministry of Education, Science and Technological Development and representatives of the Embassy of Romania in the field of teaching in Romanian language; third, direct cooperation between the authorities and organizations from the "kin-state" and national minorities in the Republic of Serbia, and, fourth, lobbying during official visits from the "kin-state" to the Republic of Serbia, when members of national minorities participate in the planning of the visit program.

Unequal position of minorities in Serbia is also real when it comes to the support coming from "kin- states". The first level of discrepancy occurs between minorities that have and those that do not have a "kin-state" (Bunjevacs, Romas, Ruthenians, and part of the Vlach minority who do not recognize Romania as their "kin-state"). The second difference is between national minorities that have a " kin-state", where the difference exists due to the extent of support provided by the “kin-state”. For example, Hungary provides significant financial resources, institutional support and willingness to cooperate with the Hungarian community in Serbia. Slovakia is cited as an example of a "kin-state" that cares about its national minorities in the Republic of Serbia. The financial support comes from the budget of the Ministry of Foreign Affairs, a department or office for citizens living outside of the " kin-state ", and not directly through the embassies in the Republic of Serbia.

Forms of support to minority communities are usually scholarships for education in the mother country (e.g. studying the language of a national minority, thereby ensuring that staff that is able to teach classes in the minority language) and education of teachers; study visits to the " kin-state"; exchange of experiences with experts from the department for cooperation with the diaspora in the form of training for creating/writing projects; import of textbooks; help with language standardization and certification of qualifications - which has been identified as one of the problems hindering the improvement of the quality of teaching in minority languages.

The average amounts of support from " kin-states" are different. Hungary stands out as the leader (the amount exceeds the amount of funds provided to the Hungarian National Council from the budget of the Republic of Serbia and Vojvodina as the most numerous and the most developed). Representatives of Romania stated that the average annual amount of support is around EUR 20.000, Croatia EUR 90.000; Slovakia has decreased its support from about EUR

60.000 for 2009 and 2010 to around EUR 35.000 for 2011 and 2012. The national councils of national minorities have opposing opinions on the amount of support received, depending on the experience of cooperation with the “kin-state”. Therefore representatives of the National Council of Hungarian national minority evaluate the level of support as extremely positive and cite it as key to achieving high results.

Other " kin-states" do not provide financial support or this support is assessed as insufficient. For example, representatives of the National Council of the Bulgarian national minority point out that the only form of support that they receive from their country is the cooperation with institutions of the academic community, or student scholarships for members of the Bulgarian minority in Serbia and for attending training programs for teachers who teach in the Bulgarian language.

Representatives of national minorities whose " kin-states" are EU members, observe the support from the perspective of lobbying to improve their position during the EU integrations process, since Serbia will have to meet a number of conditions, including adequate solution to minority policy. Some respondents – representatives of national councils of national minorities and non-members of the consultative mechanism see the " kin-state" member of the EU, even as a "potential for blackmail" for solving certain problems that have not been resolved.

Representatives of " kin-states" emphasize that from their point of view, national councils of national minorities represent important partners and community representatives, but they insist on pluralism and cooperation, and that national councils of national minorities are equal partners with whom they cooperate and define their status as the first among equals.

Assessment: adequate

Support to minority communities and their national councils by the " kin-states" is regulated by the Ministry of Foreign Affairs or Office for Cooperation with the Diaspora. Aside from the support provided by Hungary, which stands out in terms of the allocated funds and cooperation with institutions of the Hungarian community, the support from other " kin-states" to their national minorities should be increased, especially in areas related to capacity building and professional development of staff of national councils.