

SYSTEM OF MINORITIES' PROTECTION IN SERBIA

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Introduction

System of minorities' protection had been developed thought the time of Socialistic Federative republic of Yugoslavia, where national question and ethnicity were threated differently from other socialistic countries. Countries of socalled Eastern block did not consider national question as an important issue, neither they developed system of ethno-cultural groups' protection. On the other hand SFR Yugoslavia had different mechanisms that used to provide legal protection for non-constitutive nations. The Constitution from 1974 defined status of national minorities and their collective rights. Yugoslav institution of the 'key' made possible, in spite of non-democratic political system, representation of the minorities in a political life. Through the 'key' all national groups – 6 constitutive nations (Serbs, Croats, Montenegrins, Macedonians and Muslims) and minorities – were proportionally represented at all level of the government. Members of minority groups had rights on official use of language, cultural autonomy (establishment of different cultural associations and institutions), as well as instruction in a native language. In that time majority of minorities' members lived in Serbia.

Dissolution of Yugoslavia caused 'new minorities' at the territory of Serbia, which previously have been constitutive nations. It was necessary to regulate status of Slovenians, Macedonians, Croats, Montenegrins and Muslims/Bosniaks, but beside that general social atmosphere was extremely unfavourable having in mind sanctions, wars at the territory of previous state and pauperisation of huge part of population. Besides, ethnic tensions were high and in spite of Constitution from 1990 that guaranteed minorities' rights they were not respected. According to Katarina Crnjanski and Goran Basic 'During the ninth decade of 20th century basis of minority associations' finances were destroyed, as well as of institution in charge of their implementation. In the same time ethnification of politics, populism that government used as a technique of mobilisation and conflicts with neighbours caused general feeling of insecurity, as well as high distance, animosities and distrust among ethnic communities in the country' (Basic, Crnjanski, 2006:30).

After democratic changes in October 2000 new Serbian government started with necessary measures for joining of the Federal Republic of Yugoslavia to United Nations, Council of Europe and other international organisations. Yugoslavia also accepted obligations regarding international standards of national minorities' protection. It actually means that the state committed itself to development of democratic institutions and procedures, to adoption of specific measures aimed at national minorities' protections, as well as implementation of multiculturalism policy recommended through documents of OSCE, Council of Europe and European Commission. Main documents that Serbia signed are Framework Convention for the Protection of National Minorities and

European Chapter on regional and minority languages, which define a minimum of the protection of minority groups.

In contemporary Serbia status of the minorities is primary defined by Constitution adopted in 2006 and with specific focus such as: Law on protection of national minorities' rights and freedoms (2002), Law on official use of language and alphabet, Law on educational system and upbringing and Law on local self-governance (2002/6/7). Besides, Serbia has bilateral contracts on minority protection with Croatia, FYR Macedonia, Hungary and Romania. This paper deals with all main legal acts concerning national minorities' status, as well as with status of Roma people in general, having in mind that they are minority community in the most unfavourable situation.

Ethnic structure of Serbia

Republic of Serbia is ethnically very diverse country. Officially there are 19 ethnical groups with a status of national minorities. According to the last Census (2002) in Serbia (without Kosovo) lives 13.47% of population belonging to national minorities. The most numerous are Hungarians (293.299 / 3.91%), Bosniaks (136.087 / 1.81%) and Roma people (108.193 / 1.44). Also there are significant populations of Yugoslavs, Montenegrins, Croats, Albanians and Slovaks, whilst some of minorities, for examples Russians, have only several thousands of members. However, question is the numbers not the most important when it comes to the confirmation of national minority status of some ethnic groups. It is necessary for the group to be in historical connection with the territory of Serbia, to be different from the majority population on the basis of language, religions and customs and that there is a will for preservation of separate identity in order to be considered national minority. Also, it is possible for citizens not to declare its ethnicity or to express regional identity.

Ethnic groups	Serbia	%	Central Serbia	%	Vojvodina	%
Total	7.498.001		5.466.099		2.031.992	
Serbs	6.212.838	82.86	4.891.031	89.48	1.321.807	65.05

Montenegrins	69.049	0.92	33.536	0.61	35.513	1.75
Yugoslavs	80.721	0.92	30.840	0.56	49.881	2.45
Albanians	61.647	0.82	59.985	1.10	1.695	0.08
Bosniaks	136.087	1.81	135.670	2.48	417	0.02
Bulgarians	20.497	0.27	18.839	0.34	1.658	0.08
Bunjevac	20.012	0.27	246	0.00	1.658	0.08
Vlachs	40.054	0.53	39.953	0.73	101	0.00
Goranians	4.581	0.06	3.975	0.07	606	0.03
Hungarians	293.299	3.91	3.092	0.06	290.207	14.28
Macedonians	25.847	0.34	14.062	0.26	11.785	0.58
Muslims	19.503	0.26	15.869	0.29	3.634	0.18
Germens	3.901	0.05	747	0.01	3.154	0.16
Roma people	108.193	1.44	79.136	1.45	29.057	1.43
Russians	2.588	0.03	1.648	0.03	940	0.05
Ruthenians	15.905	0.21	279	0.01	15.626	0.77
Slovaks	59.021	0.79	2.384	0.04	56.637	2.79
Slovenians	5.104	0.07	3.099	0.06	2.005	0.10
Ukrainians	5.354	0.07	719	0.01	4.635	0.23
Croats	70.602	0.94	14.056	0.26	56.546	2.79
Czechs	2.211	0.03	563	0.01	1.648	0.08
Other	11.711	0.16	6.400	0.12	5.311	0.26
Non-aligned	107.732	1.44	52.716	0.96	55.016	2.71
Regionally affiliated	11.485	0.15	1.331	0.02	10.154	0.50
Unknown	75.483	1.01	51.709	0.95	23.774	1.17

Ethnic structure of Serbian population according to 2002 Census

Majority of the population belonging to one national group mostly lives on the same territory. Roma people are an exception, they live all across Serbia. It means that Bosniaks usually lives in 6 municipalities of Sandjak, where they have absolute majority in 3 municipalities (Novi Pazar, Tutin, Sjenica), but also they live in a significant number in Priboj, Prijepolje and Nova Varos. Bulgarians are majority in two municipalities – Dimitrovgrad and Bosilegrad and Slovak traditionally live in municipalities Kovacica and Backi Petrovac. Albanians have absolute majority in municipalities of Presevo and Bujanovac and relative majority in Medvedja.

In some multiethnic municipalities Serbs are in a minority status.

There are two main ethnic communities in Vojvodina – Hungarian (14.28%) and Serbian (65.05%). Hungarians are a majority in six municipalities on the North of Vojvodina and they live in twenty–five other municipalities in Vojvodina as well. There is a total of a hundred and sixty–nine municipalities in Serbia (average of 50 000 inhabitants), and sixty–eight of them are multi–ethnic. There are forty–one multi–ethnic municipalities in Vojvodina and twenty–seven in central Serbia. It needs to be mentioned how in order to consider a municipality to be multi–ethnic, 5% of the total number of its inhabitants should belong to a national minority, or the number of all national minority members in total should be at least 10% of the total number of inhabitants.

Constitution of the Republic of Serbia

The Constitution of the Republic of Serbia of 2006. is the base for the development of the policies for minority protection and it regulates their status in the broadest possible sense of that word, protects their identity and integrity. Different articles in this document address the guaranteed human and minority rights. The Constitution therefore regulates the equality of the citizens, freedom of expression of one’s national identity, prohibition of discrimination, prohibition to inspire racial, religious and national hatred, the right to be different and to preserve one’s own particularity, collective rights of national

minorities (informing, culture, education, the official use of language), the right to self-governance, development of tolerance, affirmative action measures, earned rights, equal rights to manage public affairs, authorizations of the autonomous regions to implement the rights of national minorities, the prohibition to force assimilation, the right to associate, the right to collaboration with compatriots from other counties, and direct implementation of the guaranteed rights.

According to this constitution, all the citizens are equal in front of law, regardless of their race, gender, birth, language, national affiliation, confession, political or any other belief. Also, according to one of the articles, any kind of provoking racial, national, religious or other kind of intolerance is punishable by law. Besides, it is required by law that the respect for differences should be stimulated through actions in fields of education, culture and public informing, along the spirit of tolerance and inter-ethnic dialogue understanding and cooperation among people.

Still, unlike in the Constitution of 1990 where the Republic of Serbia had been defined as the 'democratic state of all its citizens', here the concept of the civic state has been changed and Serbia defined as the 'state of Serbian people and all its citizens', and besides this, it is insisted that Serbian language and Cyrillic letter are used, while state symbols reflect strictly Serbian national tradition. The rights of minorities are regulated through special laws.

Basic laws for minority rights' protection

The Law on protection of rights and freedoms of national minorities

The Law on protection of rights and freedoms of national minorities (2002) is the basic law that regulates the status of national minorities. It was introduced on the federal level during the existence of the Federal Republic of Yugoslavia, but it continued to be in effect in Serbia after the referendum in spring 2006, when Montenegro seceded from Yugoslavia. This law will continue to be in effect until the parliament of the Republic of Serbia adopts the new law on national minorities. This law has taken over the standards

that were achieved in this area through the documents of the Council of Europe – the Framework Convention for the Protection of National Minorities and European Charter on Regional or Minority Languages. Also, this law opens up the approach of defining minority identities. This basically means that difference understandings of identity can be reduced to a general concept of a national minority. However, as it has already been mentioned, in order to consider a community as a national minority, it is necessary that it is a group that has long-term and strong link to the territory in question, and to possess such attributes as language, culture, national or ethnic affiliation, origin or religion, that differentiates its members from the majority. The basic principles on which the minority protection system is based are: *anti-discrimination, freedom of expression, cooperation with compatriots in and out of their country, the obligation to respect the constitution, principles of the international law and public moral and the protection of rights.*

Collective rights of national minorities are implemented through cultural autonomy, and the substance of it is the right to preserve the identity. This law anticipated the foundation of minority self-government. The first national council was founded by the Hungarians, and followed by the others. One of the problems lies in the fact that minority members who live away from their traditional centres can have no influence on politics, but the biggest problem is the situation where minority political parties have too much of influence

The law on the official use of the language and script

The law on the official use of the language and script implies that minority language can be used for

- a) the legislation
- b) communication with public bodies
- c) introducing personal names into official documents
- d) the work of the representative bodies
- e) the names of units of the local self-governance, towns and villages, streets, squares etc.

There are seven officially used languages in Vojvodina (Serbian, Croatian, Romanian, Ruthenian, Hungarian, Slovak and Czech), and four in central Serbia (Serbian, Bosnian, Albanian and Bulgarian).

The law about the bases of the education and upbringing system

The law about the bases of the education and upbringing system (2004) – anticipates that the purpose of education is to develop consciousness about civic and national affiliation along with preserving Serbian tradition and culture, the tradition and culture of the minorities need to be preserved as well. Minorities can choose to educate in either their own or both languages. If they choose to educate in Serbian, they also have their national language and culture as subjects.

This law decided how many students there must be in order to organize the education in minority language, and at least 15 students have to apply for one class, but with the permission of the Ministry, there can be less of them. The law requires that Serbian language is taught as well. Vojvodina also has higher achievements than the rest of Serbia when this law is in question.

The law on local self-governance (2002/6/7)

The law on local self-governance is essential for minority issues because it introduced completely new ideas about citizen participation. According to it, local self-governances should make sure good to provide good conditions for preservation and furthering the identity of minorities. They should make sure that the Constitution and laws are being practically implemented. This law orders the foundation of the Councils for interethnic relations (article 63) – in multiethnic municipalities, which should be a mechanism for tracking minority issues and developing good interethnic relations. It is not clear how members should be elected and what are the authorizations of such councils. However, they are important for fixing interethnic relations disturbed during the 1990s.

The status of the Roma in Serbia

The Roma are the most discriminated ethnic groups in Serbia, in the state of permanent poverty. According to the data from 2002, there was 108.193 of them in Serbia, or 1.4% of the total number of people, and in 1991–140.237 . According to the data by some Roma and non–governmental organizations, there are actually between 450 000 i 800 000 Roma in Serbia, mostly in and around Belgrade. The same as in other countries in the Balkan, Roma have been hiding their ethnic affiliation in almost all population listings. It is supposed this was done in order to avoid discrimination.

The number of the Roma

Country	Official data	Roma assessments	Possible number	Percentage of the population
Albania	/	120.000	55.000	1.65
Bosnia	7.000	No data	35.000	1.04
Bulgaria	313.000	1.000.000	700.000	8.50
Croatia	7.000	150.000	35.000	0.75
Macedonia	47.000	220.000	60.000	2.89
Romania	409.000	3.000.000	1.500.000	6.59
Slovenia	2.000	No data	7.000	0.35
Serbia and Montenegro	112.000	140.000	537.000	4.79

From: Božidar Jakšić, Goran Bašić 'Umetnost preživljavanja – Gde i kako žive Romi u Srbiji'

Although Roma people are very open to the non–Roma, it is not the same vice versa and they are being discriminated against.

In February 2002, the Law on the protection of the rights and freedoms of national minorities of The Federal Republic of Yugoslavia has officially acknowledged that the Roma are a national minority. It offers them the opportunity to develop their culture, education, informing and the official use of their language. It anticipates the possibility of the positive discrimination. This is aimed mostly at cultural autonomy but it should be stressed that this is not the main problem that the Roma are facing, but the unemployment and poverty, social care and housing.