

## Policy Department External Policies

# MINORITY RIGHTS IN THE WESTERN BALKANS

HUMAN RIGHTS

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EN

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## **Executive Summary**

Minority rights have received increasing attention in recent decades, and are the subject of various international treaties and frameworks. Given the demographic complexity of the region and its recent turbulent history of ethnic relations, minority protection is of particular importance in the Western Balkans, a region which comprises Albania, Bosnia and Herzegovina, Croatia, Kosovo, FYRoMacedonia, Montenegro and Serbia.

There is no consensus on the definition and characteristics of a ‘minority’, and this issue is often politically contested. Most commonly, a minority is considered a non-dominant group with an identity distinct from that of the majority population in a country. ‘Minority rights’ refer to group-specific rights, in addition to general human rights and civil and political liberties, that any individual member of the minority can choose to enjoy. ‘Minority protection’ refers to the overall institutional and policy framework in which these minority rights are embedded. Importantly, minority protection will only be effective when both majority and minority groups have incentives to adhere to the established institutions and rights.

The extent and nature of legal frameworks for minority rights—constitutional and other legal instruments, international commitments, and bilateral treaties and agreements—vary considerably across the Western Balkans region. On the whole, however, the legal provisions for minorities are extensive in all countries, and they have all signed up to most relevant international treaties and frameworks.

The implementation and enforcement of minority rights is equally varied across the region, the common denominator here being, at times serious, deficiencies. Discrimination, and in some cases even violence, against members of minorities are still widespread, state funding of minority protection measures remains inadequate, and states often appear satisfied with token gestures in the form of adopting certain laws, not least to satisfy international demands, but show little if any enthusiasm for their proper implementation. Although these problems and challenges apply to most minorities in the region, the situation of the Roma minorities is particularly problematic and unacceptable.

In order for minority protection to become a force for stability in the Western Balkans, the European Union, its institutions and member states need to encourage governments in the Western Balkans to enforce and fund existing minority protection mechanisms by carefully designing the conditionality of their policies in the association and accession process. Rather than defining conditionality in general terms (which are difficult to maintain for the EU when it has to make decisions about further engagements with or accession of states), conditionalities need to be attached to specific programmes that are most important to governments in its partner countries in the region and that also emphasise the regional dimension of minority protection.

The European Parliament could contribute to this process by strengthening its own mechanisms to monitor minority protection in the Western Balkan countries, including through its cooperation with the European Commission and Council, engage directly on minority issues with governments, parliaments and civil society in these countries, and promote cross-border regional cooperation between them, including in the framework of existing EU policies and mechanisms, such as the Stabilisation and Association Process and enlargement.

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## 1. Introduction

‘Persons belonging to national minorities have the right freely to express, preserve and develop their ethnic, cultural, linguistic or religious identity and to maintain and develop their culture in all its aspects, free of any attempts at assimilation against their will.’<sup>1</sup>

This fundamental assertion of ethnic minority rights was approved by the participating states of the Conference on Security and Co-operation in Europe (CSCE) at the 1990 Copenhagen Meeting on the Human Dimension. Section IV, article 32, of the so-called Copenhagen Document goes on to detail further particular rights of minorities such as the right to use their mother tongue freely in private and in public, including the right to disseminate, receive, and access information in it, the right to establish and maintain educational, cultural, and religious institutions and organisations, including the right to participate in international non-governmental organisations, the right to profess and practice their religion, and the right to establish and maintain contact among themselves and across borders. The signatory states further commit themselves to protecting the ethnic, cultural, linguistic, and religious identities of their minorities and to create conditions in which these identities can be promoted, including, where possible, ‘appropriate local or autonomous administrations corresponding to the specific historic and territorial circumstances’ of their minorities.

The approval of the Copenhagen Document in 1990 was not accidental. After the collapse of the Eastern Bloc in the years after 1989, minority protection and minority rights have become one of the recurring political issues in Central, Eastern, and Southeastern Europe. Not only did the dissolution and disintegration of multinational states lead to the creation of new (national) minorities, but liberalisation and democratisation in these countries have opened society for competition among newly or re-defined groups. This provided one of the conditions in which ethnic identities became more salient. Group interests were increasingly defined in ethnic terms, and ethnic groups’ claims to resources and security became an influential factor in domestic and international politics across the region.

Confronting these issues, post-1989 governments have had to formulate and implement policies to address a wide variety of minority-related issues—from separatist demands to EU accession conditionality—as one part of the transformation process to open societies and in the context of European integration. Against the background of foreign and domestic policy goals, they have had to strike a balance between the interests of the majority population, often defined as ‘nationalising’ the state after, and in distinction from, previous official ideological state ‘identities’, and the rights of minority groups, equally strongly asserted by their members, to have their distinct ethno-cultural identity recognised, respected and effectively protected.

In the context of the Western Balkans, that is, the states emerging from the ruins of Yugoslavia (excluding Slovenia) plus Albania, the debate on how best to achieve such a balance of diverse, and often competing interests, took place in a setting shaped by the character and consequences of violent conflict within and between the states of the region. Moreover, with the exception of Albania, all the states of the Western Balkans are essentially ‘new states’. That is, they had to build up or create—rather than merely ‘re-define’—their identity as states and obtain legitimacy as states both domestically and internationally. In this context, in particular, questions of minority rights have played a crucial role in that they have determined, to some extent, the acceptance of the new states by their minorities and by third states recognising them and international and regional organisations offering or denying them membership.

The regional environment in which these dynamics unfold continues to be shaped significantly by hostility, mistrust, and resentment in majority-minority and inter-state relations. Moreover, the unprecedented involvement of the international community—especially of European and transatlantic

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<sup>1</sup> Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE.  
[http://www.osce.org/documents/html/pdf/html/13992\\_en.pdf.html](http://www.osce.org/documents/html/pdf/html/13992_en.pdf.html).

regional organisations, their institutions and member states, and of the United Nations and its sub-organisations—has created a highly complex, multi-actor environment in which the debate on how best to live up to often vaguely defined commitments to minority rights and minority protection is ongoing (see Appendix 1 for an overview of the relevant European, and especially EU instruments).

#### Who or what is a minority?

It is only meaningful to talk about minority rights and minority protection when it is clear who their subject or target is. Unfortunately, there is no consensus, either academically or in international law, about how to define a minority. The most widely used of the existing definitions is the one developed by Capotorti in his study on minorities commissioned by the United Nations in 1979. He defines a minority as

... a group numerically inferior to the rest of the population of a state, in a non-dominant position, whose members – being nationals of the state – possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion, or language.<sup>2</sup>

This and other definitions, and the lack of an established consensus on them, matter in as much as they determine those who are eligible to benefit from minority rights and minority protection. As there is no internationally legally binding clarification of the term ‘minority’ and hence no obligation for states to accept that they have minorities among their citizens (in the sense of the above or any other definition, not least because both the mentioned characteristics and especially the necessary ‘sense of solidarity’ are highly subjective criteria), states wield a significant degree of power to decide which minorities they recognise, a power that they predominantly exercise through pre-defining census categories, which in turn shape the framework of policies directed at minorities.

#### What are minority rights?

Also referred to as group rights or collective rights, the term ‘minority rights’ implies a specific set of rights that can only be enjoyed by members of a particular minority individually, if they so wish (that is, members of minorities are under no obligation to avail themselves of these rights). Minority rights are thus additional rights above and beyond individual human rights, instituted to address specific concerns that members of minorities may have individually and collectively.

Minority rights, as they exist in domestic legislation, include self-government rights, cultural rights, and political representation/ participation rights. Broadly speaking, these rights are aimed at creating conditions under which members of minorities, individually and collectively, can express, develop and preserve their distinct identity. They are thus closely related to more general individual human rights, including non-discrimination rights, and to specific institutional arrangements in which minority-majority relations develop. As legal instruments, they are codified in national law, and arise partly from international obligations into which states have entered. For example, according to the UN Declaration on Minority Rights,

States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity.<sup>3</sup>

Similarly, various European-based or -focused institutions have established a broad framework of declarations, institutions, and other mechanisms that provide the context in which minority rights are codified, implemented and enforced (see Appendix 1).

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<sup>2</sup> Francesco Capotorti, *Study on the rights of persons belonging to ethnic, religious, and linguistic minorities* (UN Doc. E/CN.4/Sub.2/384/Rev.1, 1979).

<sup>3</sup> *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*. Adopted by General Assembly Resolution 47/135 of 18 December 1992.

By way of example, minority rights manifest themselves, among others, in specific cultural, educational, religious, and linguistic rights: rights to maintain their own cultural institutions (e.g., theatres, electronic and print media) and receive adequate state funding for their functioning, rights to practise their religion and have specific religious practices respected, rights to use their own language in private and in public and to communicate in it with public authorities, and rights in the education sector (e.g., instruction in the mother tongue, curricula that reflect minority culture and history). More controversial are rights for minorities to establish their own political parties, to receive preferential treatment under electoral arrangements, to have privileged access to positions in the public sector, including government, or to enjoy rights of self-governance, especially territorial self-governance (autonomy).

#### What is minority protection?

Minority protection refers to the broader institutional and policy framework that establishes the conditions in which minority rights can be meaningfully exercised. That is, there needs to be a social and political context, expressing the commitment of the respective state to protect its minorities and enable them to preserve, express, and develop their identity. Within such a framework, minorities must be able to participate as individuals and groups, to influence decisions, and to determine their future within the boundaries of a democratic constitution. This latter point is of particular importance. While there can be little doubt that minorities are in general more vulnerable than the state in which they live, minority rights frameworks, and the broader set of institutional arrangements in which minority-majority relations are conducted, must be carefully designed so as not to undermine the social fabric and territorial integrity of the state.

For minority protection to really work in preventing conflict (violent or otherwise) between minorities and majorities, institutional governance arrangements, including minority rights, must provide incentives for minorities and majorities alike to abide by these arrangements and not to undermine them. Thus, the state must have incentives to ‘negotiate’ for arrangements that offer an acceptable level of accommodation for the ethnic group/s concerned, to implement any such agreement, and subsequently to maintain the arrangements once they have been established, i.e., not to encroach on any rights or powers of the ethnic group/s once they were granted. These incentives, by necessity, must include a perception by the elites of the state and the majority group population that their own status and powers are not likely to be endangered. On the other hand, ethnic group/s must have an incentive not to ‘secede’ from the arrangements, and will, thus, need to have – and continue to have – some kind of stake in the arrangements established, while its elites and members must perceive the arrangement as satisfactory in addressing their specific concerns. In other words, minority protection arrangements, in order to function properly and deliver expected security, stability, and conflict prevention, must do two things: provide an outcome from which the states and minorities involved benefit individually, and an outcome which allows the respective opposite side also to benefit in such a way that both sides have a stake and incentive to implement and then operate a set of agreed governance arrangements.

This means that minority rights must be enforceable and impartially enforced within such a broader institutional framework. It is thus not enough merely to consider the existing legal framework. Almost more importantly, the practice of minority policy needs to be examined in order to gain an adequate sense of the degree and effectiveness of minority protection, to identify shortcomings, and to recommend measures to overcome them (see Appendix 3/“Checklist on Minority Rights”).

## 2. Mapping the situation in Western Balkans: Demography, legal provisions, and international commitments

In this section, we are presenting some basic data on the size of minorities in the countries of the Western Balkans, on the existing legal provisions relevant to minority protection, and the international commitments these states have entered into.

### 2.1. The demography of minorities in the Western Balkans

Overall, the countries in the region are ethnically very diverse. This is particularly true for the successor states of Yugoslavia, but also holds for **Albania**, although minorities here only figure in comparatively smaller numbers (2.15% of the total population belong to minorities) and only in NGO estimates because the latest census (2001) did not include any questions regarding citizens' ethnic identity.

**Croatia's** minority population comprises some 330,000 people (or 7.5% of the population), and among them Serbs are by far the largest such group accounting for almost two-thirds of the minority population in Croatia. The situation in **Serbia** is similar: the country has a minority population of 12.5% (just under one million people), but its largest minority, Hungarians, make up for only about one-third of the total (almost 300,000). The three other Yugoslav successor states—Bosnia and Herzegovina, FYRoMacedonia, and Montenegro—are in a different situation. **FYRoMacedonia's** largest minority group, ethnic Albanians, account for around one-quarter of the country's population (just over half a million people), no other minority group exceeds the 100,000-mark in official statistics.<sup>4</sup> In Bosnia and Herzegovina and Montenegro, the situation is even more pronounced in the sense that neither country has an ethnic majority population. In **Bosnia**, Bosniaks, Serbs, and Croats are defined as the three constituent peoples in the Dayton constitution and account for well over 90% of the population, with Bosniaks (48%) being the numerically largest group, followed by Serbs (37%) and Croats (14%). Officially, the largest minority are Montenegrins (around 10,000 or 0.2%), but unofficial estimates put the number of Roma at around 30-50,000 (or approximately 1%).<sup>5</sup> In **Montenegro**, the titular group makes up 43% (270,000 people) of the country's total population, the largest minority group are the Serbs with 32% (200,000 people). Smaller minorities include Bosniaks and Albanians, as well as Roma who are unofficially estimated at 20,000 (instead of their official census population of 2,600 people).<sup>6</sup> The situation in **Kosovo** is fairly similar to that in Croatia and Serbia—current estimates of minority groups in Kosovo are around 12%, with the single largest group, Serbs, accounting for approximately 7% (or 133,000 people) of Kosovo's total population. For a detailed overview of available data, see Table 1 and Appendix 2.

### 2.2. Current legal provisions for minority rights in the Western Balkans

The next important element in our mapping exercise is to establish the existing legal framework for minority rights in the countries of the Western Balkans. While demography helps us identify, in part, the need for minority rights, an overview of legislation in place provides a first glimpse at how such needs translate into the practice of minority protection. There is no doubt that legal frameworks are extremely important, not least because they offer proper reference points for the state and members of minority groups, including redress to legal action if rights provided are violated. Yet, as we shall see in Section 3, the legal framework itself offers only part of the picture, and we also need to consider questions of implementation and policy.

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<sup>4</sup> NGO estimates for the Roma population go as high as 200,000. See Minority Rights Group International (<http://www.minorityrights.org/?lid=4021>).

<sup>5</sup> See Minority Rights Group International (<http://www.minorityrights.org/?lid=2471>).

<sup>6</sup> See Minority Rights Group International (<http://www.minorityrights.org/?lid=2639>).



On paper, all countries in the Western Balkans have a relatively positive set of legal provisions for minority rights, and we concentrate in the following on highlighting some relevant constitutional and other legal provisions, while giving a fuller overview in Table 2 below.

**Albania**'s constitution emphasises in Article 3 that, among others, "coexistence with, and understanding of Albanians for, minorities are the bases of this state, which has the duty of respecting and protecting them." Article 20, furthermore, asserts that "Persons who belong to national minorities exercise in full equality before the law the human rights and freedoms" and that "They have the right to freely express, without prohibition or compulsion, their ethnic, cultural, religious and linguistic belonging. They have the right to preserve and develop it, to study and to be taught in their mother tongue, as well as unite in organizations and societies for the protection of their interests and identity." Even though Article 14(1) determines Albanian as the official language of the country, Law nr. 7152, of 21 June 1995 on the educational system prescribes in Article 10 the right for minorities to study and to be taught in their mother tongue. Moreover, the electoral code, in Article 3, guarantees that "every Albanian citizen, without distinction of race, ethnicity, gender, language, political conviction, religious belief, or economic condition, has the right to vote and to be elected in conformity with the rules provided in this Code."

In **Bosnia and Herzegovina**, the number of members of minority communities is very small. However, while the three constituent peoples together comprise well over 90% of the total population, none of them is a majority either, and in fact they all find themselves in minority positions outside their respective territorial zones—Republika Srpska and the cantons in the Federation. The Dayton constitution puts the constituent peoples in a very privileged situation in that it gives them extensive territorial self-governance rights (Republika Srpska is an almost exclusively ethnic Serb entity; the Federation of Bosnia and Herzegovina is nominally bi-ethnic Bosniak and Croat, but in reality power is divided between these two communities on the basis of cantonisation, with seven predominantly Bosniak and three predominantly Croat cantons). While a recent constitutional court decision has affirmed the equality of members of the three constituent peoples across the territory of the State, they are also further protected by extensive power sharing arrangements in the Federation and at the State level, including proportional representation in all relevant legislative and executive bodies and veto rights in several areas of policy making. Members of minority communities are by default excluded from many of these arrangements.

The parties to the Dayton Accords accepted the direct applicability of major international human rights instruments, some of whom are directly relevant for minority protection and include the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, and the Protocols thereto, the 1957 Convention on the Nationality of Married Women, the 1965 International Convention on the Elimination of All Forms of Racial Discrimination, the 1966 International Covenant on Civil and Political Rights, the 1966 Covenant on Economic, Social and Cultural Rights, the 1992 European Charter for Regional or Minority Languages, and the 1994 Framework Convention for the Protection of National Minorities.

In addition to these directly applicable international human and minority rights instruments, the Bosnian constitution and legal framework have very little concrete to offer in terms of minority rights. The only other major domestic minority rights provisions stem from the 2003 Law on the Protection of Minority Rights, which includes regulations on proportional representation of minorities in executive and judicial bodies and in public services, establishes National Councils of Minorities (offering functional, as opposed to territorial, self-governance to members of minorities), and on the use of minority languages in education and the public sector.

The situation in **Croatia** is unique in the context of the Western Balkans in that the country has minority rights provisions in the constitution, in a specific constitutional law on the rights of national minorities (the current version was adopted in 2002), and in several other pieces of legislation. This creates a very broad legal framework for the protection of minorities in Croatia, including

constitutional rights guaranteeing equality with citizens of Croat nationality and the realization of ethnic rights in accordance with international standards, freedom to express their national identity, freedom to use their language and script, and cultural autonomy. According to Article 82 of the constitution, “Laws (organic laws) which regulate the rights of national minorities shall be passed by the Croatian Parliament by a two-thirds majority vote of all representatives.”

The constitutional law further elaborates these rights, making specific reference to all major international human and minority rights instruments and allows for necessary ‘positive measures’ to implement these rights. Specifically, the constitutional law enumerates the following rights of members of minorities: the use of their language and script, privately and in public use and in official use; education in the language and script which they use; the use of their signs and symbols; cultural autonomy by way of preservation, development and expression of one’s own culture and the preservation and protection of one’s cultural assets and tradition; the right to profess one’s religion and to establish religious communities together with other members of that religion; access to the media and the performance of activities of public information (receiving and forwarding information) in the language and script which they use; self-organising and association for the purpose of exercising mutual interests; representation in the representative bodies at the state and local level and in administrative and judicial bodies; participation of members of national minorities in the public life and in management of local affairs through the councils and through representatives of national minorities; and protection from any activity which endangers or may endanger their existence, the exercise of rights and freedoms.

Furthermore, the constitutional law mandates the representation of members of minorities in local, regional, and national legislative organs through a system of reserved seats in proportion to the share of the minority in the total population of the relevant level of government. Similar provisions apply for minority representation in executive organs of the state at local, regional and national level, and they are to be given priority in recruitment to posts in state administration and judicial services if they are equally well qualified.

Finally, the constitutional law provides for functional minority self-government at local and regional level (Councils of National Minorities) and for a consultative body on minority affairs at the national level (Council for National Minorities), the latter comprising members proposed by Councils of National Minorities and national minority organisations.

Further laws that make relevant provisions for minority rights include the 2000 Law on the Use of Language and Script of National Minorities in the Republic of Croatia and the 2000 Law on Education in the Language and Script of National Minorities, which regulate details of language use in public and in communication with authorities and of mother-tongue education. The electoral code of Croatia provides details for the election of minority representatives to local, regional and national legislative bodies.

The legal situation in **Kosovo** is in relative flux at the moment, and we limit ourselves here to a brief discussion of the Kosovo constitution as approved by the local parliament on 9 April 2008. Article 5 declares Albanian and Serbian official languages in Kosovo, while giving Turkish, Bosnian and Roma languages the same status of official languages at the municipal level. Article 7, among others declares non-discrimination on grounds of ethnicity, gender or religion as one of the values of the state. Interestingly, Article 22 notes the direct applicability of international agreements and instruments, including the Universal Declaration of Human Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols, the International Covenant on Civil and Political Rights and its Protocols, the Council of Europe Framework Convention for the Protection of National Minorities, and the Convention on the Elimination of All Forms of Racial Discrimination. Furthermore, the draft constitution devotes all of Chapter III to the “Rights of Communities and Their Members”, and goes on to detail very extensive minority rights provisions, including rights to cross-border cooperation and minority-specific representation in the political process.

The constitution of **FYROMacedonia** was amended pursuant to the stipulations of the Ohrid Agreement in November 2001 in an attempt to reflect better the multiethnic character of the country. Amendments to the constitution included an explicit acknowledgement of the country's Albanian, Turkish, Vlach, Serbian, Roma, and Bosniak minorities in the Preamble. Article 7 now provides for minority language rights, including a regulation that any "language spoken by at least 20% of the population is also an official language" and provisions for the use of minority languages at the local level. In Article 8, the constitution furthermore establishes "equitable representation of persons belonging to all communities in public bodies at all levels and in other areas of public life" and "the free expression of national identity" as fundamental values of the state. Non-discrimination and equality of religious communities are also guaranteed in the new constitution. Article 48 specifies the rights of members of ethnic minorities ("communities"): "a right freely to express, foster and develop their identity and community attributes, and to use their community symbols", a right "to establish institutions for culture, art, science and education, as well as scholarly and other associations for the expression, fostering and development of their identity", and a right to instruction in their language in primary and secondary education". While there is a state guarantee for "the protection of the ethnic, cultural, linguistic and religious identity of all communities", this article also insists that "in schools where education is carried out in another language, the Macedonian language is also studied".

Article 78 of the Constitution says "The Assembly establishes a Council for Inter-Ethnic Relations. The Council consists of the President of the Assembly and two members each from the ranks of the Macedonians, Albanians, Turks, Vlachs and Romanians, as well as two members from the ranks of other nationalities in Macedonia".

The Committee is intended to consider issues on inter-community relations in the Republic and makes appraisals and proposals for their solution. However, as with the Council for Inter-Ethnic relations which preceded the Ohrid Agreement, the Committee is not an active institution and as such infringes on the rights of minority communities to participate in the political process.<sup>7</sup>

The FYROM case is also interesting in that it offers very extensive political participation rights. Certain decisions in parliament, related to laws that directly affect issues of minority rights, require a double majority of members of parliament and of the group affected. Since 2005 similar provisions are also in place for the appointment of the government. FYROMacedonia, while not directly providing territorial autonomy to its minorities, has devolved extensive powers of self-governance to the local level. In combination with a redrawing of local boundaries, this has considerably enhanced the level of local autonomy for the ethnic Albanian minority.

In the case of **Montenegro**, the constitution bans discrimination but explicitly allows for 'positive discrimination' or 'affirmative action'. However, these "Special measures may only be applied until the achievement of the aims for which they were undertaken" (Article 8). While determining that "The official language in Montenegro shall be Montenegrin", the constitution also notes that the "Cyrillic and Latin alphabet shall be equal" and that "Serbian, Bosniak, Albanian and Croatian shall be in official use" (Article 13). Special minority rights, whose exercise is subject to further legislation, are detailed in Part II, Chapter 5 of the constitution and include "the right to exercise, protect, develop and publicly express national, ethnic, cultural and religious particularities", "the right to choose, use and publicly post national symbols and to celebrate national holidays", "the right to use their own language and alphabet in private, public and official use", "the right to education in their own language and alphabet in public institutions and the right to have included in the curricula the history and culture of the persons belonging to minority nations and other minority national communities", "the right, in the areas with significant share in the total population, to have the local self-government authorities, state and court authorities carry out the proceedings in the language of minority nations and other minority national communities", "the right to establish educational, cultural and religious associations, with the material support of the state", "the right to write and use their own name and

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<sup>7</sup> More information available at : <http://www.sobranie.mk/en/default.asp?vidi=komisii&MandatID=5&NazivA=Committee+on+Relations+Between+Communities>

surname also in their own language and alphabet in the official documents”, “the right, in the areas with significant share in total population, to have traditional local terms, names of streets and settlements, as well as topographic signs written in the language of minority nations and other minority national communities”, “the right to authentic representation in the Parliament of the Republic of Montenegro and in the assemblies of the local self-government units in which they represent a significant share in the population, according to the principle of affirmative action”, “the right to proportionate representation in public services, state authorities and local self-government bodies”, “the right to information in their own language”, “the right to establish and maintain contacts with the citizens and associations outside of Montenegro, with whom they have common national and ethnic background, cultural and historic heritage, as well as religious beliefs”, and “the right to establish councils for the protection and improvement of special rights.” The right to access to mother-tongue education is separately regulated in decrees on primary and secondary education. Explicitly, the constitution of Montenegro prohibits forced assimilation and obliges the state to “protect persons belonging to minority nations and other minority national communities from all forms of forceful assimilation” (Article 80).

Montenegro has not implemented the Federal Law on National Minorities, as well as other legislation of the joint state passed before the creation of the state union in 2003. A Law on National Minorities has been under discussion for many years but remains at draft stage due to inter-ethnic controversies. As a result, a newly adopted Law specifically addressing minority rights has been already contested as unconstitutional. The absence of a specific minority law in Montenegro and the failure to adopt and implement the Federal Minority Law create a significant level of ambiguity in minority protection as clear national legal reference points are missing.

Finally, **Serbia** also has a relatively advanced framework of minority rights and minority protection in place. It includes constitutional guarantees for non-discrimination, for participation in decision-making on certain issues related to their culture, education, information and official use of languages and script, as well as self-governance in the field of culture, education, information and official use of their language and script. The constitution indirectly allows for affirmative action/positive discrimination when stating, in Article 77, that “When taking up employment in state bodies, public services, bodies of autonomous province and local self-government units, the ethnic structure of population and appropriate representation of members of national minorities shall be taken into consideration.” Article 80 of the Serbian constitution provides that “Members of national minorities shall have a right to undisturbed relations and cooperation with their compatriots outside the territory of the Republic of Serbia.” The constitution also elaborates in some detail the concept of territorial autonomy and the competences of territorial autonomy units, mentioning specifically Vojvodina and Kosovo & Metohija, as well as the possibility of establishing further such entities.

The minority rights in framework of Serbia further includes three specific laws—the 2002 Law on the Protection of the Rights and Freedoms of National Minorities, the 2002 Law on Education and the Official Use of Minority Languages, and the 1991 Law on the Official Use of Language and Scripts. Of these the national minorities law is the most significant, as it further elaborates on a number of constitutional provisions. The law establishes criteria defining a national minority, but does not list any specific minorities (as for example other legal instruments do in Bosnia, Croatia or FYRoMacedonia), and it sets out the limitations of minority rights and their implementation and enjoyment in terms of the constitutional order, principles of international law and public morality. The law otherwise deals primarily with issues of identity preservation, expression and development, regulating the use of minority languages in public and in the education sector, and the establishment of minority self-government bodies and a national consultative forum on minority issues.

### 2.3. International commitments and obligations

A final issue we need to investigate in determining the legal framework of minority rights in the Western Balkans is whether the countries of the region have explicitly signed up to, and ratified, international human and minority rights standards. The most relevant international instruments in this

regard are the 1965 International Convention on the Elimination of all Forms of Racial Discrimination, the 1966 International Covenant on Civil and Political Rights, the 1966 International Covenant on Economic, Social, and Cultural Rights the 1990 Copenhagen Document of the Conference on European Security and Co-operation, the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, the 1992 European Charter for Regional or Minority Languages, and the 1995 Framework Convention for the Protection of National Minorities. While many of these instruments suffer from vagueness in their wording and limitations in their enforceability, they nonetheless offer some insights into the general level of commitment by states to live up to international standards. Ratifications of these instruments are detailed in Table 3 below. We exclude Kosovo from this survey, but note our earlier observation that the constitution of Kosovo proposes the direct applicability of, among others, four of these international instruments (see Section 2.2. above).

The only exception to the general rule of all Western Balkan countries signing up to these standards is Albania's rejection, so far, to sign the European Charter for Regional or Minority Languages.

An additional element of international obligations that is worth considering is whether there are any bilateral arrangements in place among the countries of the Western Balkans and between them and third countries. Such arrangements, in the form of treaties and agreements, are fairly common in Europe. They go back to before the end of the Cold War, but had a particular renaissance in the 1990s, when multiple such treaties and agreements were signed among the emerging democracies in Central and Eastern Europe (and between some of them and established democracies in western Europe, such as Germany and Austria). Table 4 below details available information on existing bilateral arrangements.<sup>8</sup>

Serbia, partly due to being the successor state to all previous incarnations of the Yugoslav state, has the largest number of such treaties and agreements in place with other states in the region and beyond. To a large extent, these include provisions for minority protection, cross-border cooperation and recognition of existing borders. Other countries have fewer agreements in place, and while these generally include provisions for cross-border cooperation, minority protection as such is not always specifically mentioned, nor is it excluded per se, so that minorities can at least benefit from the broader framework of relations that the treaties and agreements establish. As always, this happens rather unevenly across the region and much depends on the general state of relations between the signatories. For example, the relations between Serbia and Bosnian Serbs and between Croatia and Bosnian Croats are relatively well developed and these two communities benefit from extensive support from their kin-states. Croatian Serbs, on the other hand, receive comparatively less direct support from Serbia, yet are, despite many problems remaining, also better integrated into the Croatian state. It is also important to bear in mind in this context that the treaty that Serbia has signed is with Croatia, on the one side, but with Republika Srpska, i.e., an entity in Bosnia and not the state itself (the same goes for Croatia and its agreement with the Federation entity, rather than the Bosnian State).

### **3. Minority policy in practice**

Against the background of mapping the demography of minorities in the Western Balkans and establishing the legal framework of minority rights in each of the countries in the region, we now need to look more closely at the practice of minority policy. The importance of legal provisions to one side, laws tell us little about the actual situation of minorities, the level of 'popular' and official discrimination they experience, and about the overall effectiveness of minority rights frameworks in place to protect minorities from discrimination, unwanted assimilation, and social, economic, and political marginalisation.

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<sup>8</sup> We exclude Kosovo from the following analysis.

### 3.1. Albania<sup>9</sup>

The Roma community in Albania continues to suffer from pervasive **discrimination**, miserable living conditions, and inadequate access to basic social services, which in turn reinforces their social exclusion. In previous years, Roma and Balkan-Egyptians also suffered from arbitrary arrest, detention and other forms of police abuse. In addition, the number of **internally trafficked children**, particularly from the Roma and Balkan-Egyptian communities, has recently increased, and victims end up as street beggars.

The Albanian government generally respects the human rights of its citizens; however, there are still problems in some areas, including widespread **inhuman treatment and physical abuse of prisoners and detainees** belonging to minority communities.

Furthermore, the Albanian government maintains **artificial distinctions between ethnic minority groups**. The legal framework permits official minority status for national groups and for ethnolinguistic groups. Greeks are the largest national minority, followed by small groups of "Macedonians" and Montenegrins; Aromanians (Vlachs) and Roma are defined as ethnolinguistic minority groups, but would like recognition as national minorities as well. Balkan-Egyptians, so far have not been recognised in either category, but are treated as a 'community' and are thus denied the specific constitutional protections against discrimination available to other minority groups. The Greek minority has over the years cited grievances with the government regarding electoral zones, Greek-language education, property rights, and government documents. Minority leaders note the government's unwillingness to recognize ethnic Greek towns outside communist-era "minority zones", to utilize Greek on official documents and on public signs in ethnic Greek areas, to establish the actual size of the ethnic Greek population, and to include a higher number of ethnic Greeks in public administration.

There are also clear signs of lacking **funds** to implement minority rights. Moreover, in 2006 the Balkan-Egyptian community was specifically excluded from the government poverty alleviation strategies because they were not recognized as an official minority. Moreover, both in 2006 and 2007 the government did not fund its National Roma Strategy, which sought to improve the livelihood of the community, despite the fact that approximately 80% of Roma lived in extreme **poverty**, compared to 20 to 30% of the rest of the country's population. The group's **unemployment** rate was 71% , nearly 12 times the rate for the rest of the population, and Roma had a **life expectancy** 15 years less than non-Roma.

However, a particular fund has been foreseen in the 2007 budget by the Council of Ministers for the State Committee on Minorities in order to **finance projects** for the preservation and development of culture and for the preservation of the national identity of minorities; to finance the means of information in the native language of minorities, to take the appropriate measures for the improvement of minorities climate representation in the media; and to financially support the organization, at the national level, for the "Day of Minorities".

Albania has ratified the UNESCO Convention on the Protection of the Diversity of Cultural Expressions, which has now entered into force.<sup>10</sup> Recognised national and ethnolinguistic minority

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<sup>9</sup> Unless otherwise indicated, we rely primarily on the following sources: US State Department Country Reports on Human Rights Practices - 2005, 2006 and 2007 Released by the Bureau of Democracy, Human Rights, and Labour, March 11, 2008, <http://www.state.gov/g/drl/rls/hrrpt/2007/100544.htm>; Second Report Submitted by Albania pursuant to article 25, Paragraph 1 of the Framework Convention for the Protection of the National Minorities, Strasburg 2007, [http://www.coe.int/t/e/human\\_rights/minorities/Country\\_specific\\_eng.asp#P4\\_36](http://www.coe.int/t/e/human_rights/minorities/Country_specific_eng.asp#P4_36); First Report Submitted by Albania pursuant to article 25, Paragraph 1 of the Council of Europe's Framework Convention for the Protection of the National Minorities 2001, [http://www.coe.int/t/e/human\\_rights/minorities/Country\\_specific\\_eng.asp#P4\\_36](http://www.coe.int/t/e/human_rights/minorities/Country_specific_eng.asp#P4_36); Advisory Committee Report on the Framework Convention for the Protection of National Minorities, Strasburg 2002, [http://www.coe.int/t/e/human\\_rights/minorities/Country\\_specific\\_eng.asp#P4\\_36](http://www.coe.int/t/e/human_rights/minorities/Country_specific_eng.asp#P4_36); Overview of Human Rights issues in Albania, Human Rights Watch, 2004, <http://www.hrw.org/countries.html>; Amnesty International Report 2007, <http://www.amnesty.org/en/region/europe-and-central-asia/balkans/albania>.

<sup>10</sup> European Commission 2007 Enlargement Strategy Paper (conclusions) and Albania Progress Report, SEC(2007) 1429

groups in Albania have the right to autonomously create and finance their own cultural institutions. In practice, this has meant that licenses have been granted to several **radio and television** operators who broadcast in the native language of the national minorities. In addition, the Greek minority publishes several weekly and monthly **newspapers and magazines**, while the 'Macedonian' and Aromanian minorities have one such paper each. The Ministry of Tourism, Culture, Youth and Sports supports publication of a magazine focusing on the culture and social issues of the Roma and organises annual national festivals to promote the cultural heritage of all Albania's minorities.

Albanian legislation also provides **education rights** to the minority communities in their own language and the right to operate private schools. There are Greek-language public elementary schools in the southern part of the country where most ethnic Greeks live. Every village in the Greek 'zones' has its own elementary-middle (nine year) school in the Greek language, regardless of the number of students, and Gjirokaster had two Greek-language high schools. In 2006, the government granted an operating license to one school in the south outside the Greek zone and agreed to cooperate in the building of a Greek-language university in the city of Gjirokaster to be funded by the Greek government. Moreover, updated syllabuses allow members of minorities to include subjects in their mother tongue in their curricula. "Schools specifically for members of the Greek and 'Macedonian' minorities have significantly higher teacher-pupil ratios than the national average".<sup>11</sup>

Albanian legislation guarantees the participation of minorities in the election process. In practice, the Greek and 'Macedonian' minorities participate through their own, separate parties (with only the Greek minority party winning seats, however) and members of the Greek minority are also represented on the national lists (and continue to win seats this way). Thus, the Greek minority was represented in parliament (following elections in 2001) by the Human Rights Union Party, which won four seats and by two other members of parliament of ethnic Greek origin who were members of the Socialist Party. The Greek minority was represented in government in the same period by the Minister of Health, the Deputy Minister of Labour and Social Affairs and the Deputy Minister of Justice. After the parliamentary elections of 3 July 2005, the Human Rights Union Party lost two seats, but the minority as a whole was also represented by one independent Member of Parliament and by one Member of Parliament of ethnic Greek origin who is part of the Socialist Party. One member of the Greek minority was appointed as the Minister of Labour, Social Affairs and Equal Opportunities in the new government structure. No other ethnic minorities are represented in the People's Assembly or in the Council of Ministers.

The State Committee on Minorities is a consultative body and comprises, besides a technical staff, five members belonging to minorities (Greek, 'Macedonian', Serbian-Montenegrin, Aromanian, and Roma). It is currently chaired by a representative of the Greek minority.

"The **economic** and social situation of the Greek, 'Macedonian', Serbian-Montenegrin and Aromanian minorities is generally good". People belonging to these minorities fully participate in the economic and social life of the country and often have organizations representing their own interests. The Aromanian minority is particularly active in its efforts to preserve its ethnic and linguistic heritage"<sup>12</sup>.

Regarding the **Roma** minority in particular, Albania has adopted a National Strategy for the Improvement on the Roma Living Conditions but is not participating in the 2005-2015 Decade of Roma Inclusion. During the implementation process, steps have been taken to improve housing, employment and business opportunities for members of the Roma community and to organise vaccination campaigns. However, Roma still face poverty, discrimination and extremely high rates of illiteracy. Less than 50% of all Roma children go to primary schools and only about 25% complete primary education.<sup>13</sup> The Roma population's very low level of education and professional qualifications constrains their access to the formal labour market, which, in turn, exacerbates poverty.

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<sup>11</sup> European Commission 2007 Enlargement Strategy Paper (conclusions) and Albania Progress Report, SEC(2007) 1429

<sup>12</sup> European Commission 2007 Enlargement Strategy Paper (conclusions) and Albania Progress Report, SEC(2007) 1429

<sup>13</sup> European Commission 2007 Enlargement Strategy Paper (conclusions) and Albania Progress Report, SEC(2007) 1429

The fact that Roma families are not registered with the authorities excludes them from social assistance, education and health services and increases their risk of becoming victims of human trafficking.

### 3.2. Bosnia and Herzegovina<sup>14</sup>

The minority rights situation in Bosnia and Herzegovina is highly complex owing, among others, to the legacy of the war, the multiple layers of authority in the country, and the special status of the three constituent peoples.

Ethnically motivated religious **violence** is widespread in Bosnia, with a number of acts of violence, vandalism, and theft committed against Islamic, Serb Orthodox and Catholic religious objects and clergy. While ethnically motivated violence is rampant across the entire state, it is particularly frequent in Republika Srpska against non-Serbs. Anti-Semitism also remains a problem in Bosnia.

The situation is compounded by the **absence of proper antidiscrimination legislation** and the fact that **minority legislation** was only passed in Republika Srpska in December 2004, and is still pending in the Federation. Given the political structure of Bosnia, the 2003 State Law on the Protection of Rights of Persons Belonging to National Minorities of Bosnia and Herzegovina requires elaboration in, and implementation through, entity-level legislation. An amendment to this law came into force in October 2005 and a National Minority Council of Bosnia and Herzegovina was established in May 2006.

**Minority languages** are generally not used in communication with authorities or before courts.

**Property rights** of minorities are generally ignored and relevant legislation remains unimplemented. For example, religious communities still await the return of their property that was nationalized during the Yugoslav era (a relevant law exists but remains unimplemented). Religious tensions are further exacerbated by illegal construction of religious buildings or monuments identifiable with the local majority group on private or government-owned land.

Discrimination and inequality in the judicial system is particularly frequent for non-Serbs in Republika Srpska. Here, **religious education** for minorities is also obstructed and used as a political strategy to prevent refugee return.

**Minority refugee return**, i.e., the right to freedom of movement is seriously impeded across Bosnia, primarily due to harassment of local minority returnees. Property repossessions by pre-war owners under a national restitution scheme have increased over the past several years, but most minority 'returnees' simply sell their property and leave their former homes for good. Local governments generally do not financially support other minority/religious communities regardless of any legal provisions.

Councils of National Minorities, regulated by a May 2006 Decision on the Foundation of Councils of National Minorities, are to give an institutional expression to **minority cultural autonomy**, but the councils have yet to be constituted in large numbers.

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<sup>14</sup> Unless otherwise indicated, we rely primarily on the following sources: Second Report submitted by Bosnia and Herzegovina pursuant to Article 25, paragraph 1 of the Framework Convention for the protection of national minorities. Received on 2 August 2007. [http://www.coe.int/t/e/human\\_rights/minorities/2\\_framework\\_convention\\_\(monitoring\)/2\\_monitoring\\_mechanism/3\\_state\\_reports\\_and\\_un\\_mik\\_kosovo\\_report/2\\_second\\_cycle/PDF\\_2nd\\_SR\\_BiH\\_eng.pdf](http://www.coe.int/t/e/human_rights/minorities/2_framework_convention_(monitoring)/2_monitoring_mechanism/3_state_reports_and_un_mik_kosovo_report/2_second_cycle/PDF_2nd_SR_BiH_eng.pdf). Country Reports on Human Rights Practices (2005-7), Released by the Bureau of Democracy, Human Rights, and Labor, the U.S. Department of State. <http://www.state.gov/g/drl/rls/hrrpt/2007/100551.htm>, <http://www.state.gov/g/drl/rls/hrrpt/2006/78804.htm>, <http://www.state.gov/g/drl/rls/hrrpt/2005/61640.htm>; Human Rights Watch World Reports 2006-8; at <http://hrw.org/englishwr2k8/docs/2008/01/31/bosher17681.htm>, <http://hrw.org/englishwr2k7/docs/2007/01/11/bosher14773.htm>, <http://hrw.org/english/docs/2006/01/18/bosher12238.htm>; Helsinki Committee for Human Rights in Bosnia and Herzegovina, Annual Reports 2005-7 at [http://www.bh-hchr.org/Reports/Report\\_on\\_the\\_status\\_of\\_HR\\_for\\_2007.doc](http://www.bh-hchr.org/Reports/Report_on_the_status_of_HR_for_2007.doc), <http://www.bh-hchr.org/Reports/reportHR2006.htm>, <http://www.bh-hchr.org/Reports/reportHR2005.htm>; Helsinki Committee for Human Rights in Republika Srpska, Reports 2005-8 at <http://www.helsinki.org/index.php?Meni=6&Stranica=pages/izvestaji.php>.



There is no known example of minority languages being taught in schools. Access to **minority education** in Republika Srpska, in the minorities' mother tongue, is still largely impossible, despite existing legal provisions (Law on National Minorities in the RS, and laws on primary and secondary education). Some progress has been reported in relation to the 2005 "Strategy for Addressing Roma Problems" in the area of Roma education. In spite being provided with necessary 'school material, textbooks and financial assistance for hot meals and school transport', the response was very limited with small numbers of children enrolled in education. On average, less than 30% of Roma children finish obligatory education.<sup>15</sup>

The Dayton Agreement and Bosnia's Election Law are imprecise in defining ethnic minorities' rights. More generally the corporate consociational nature of the political system in Bosnia assigning places to representatives of the constitutive nations and thereby denying the possibility of minority representatives running, for example, for membership in the collective presidency, completely denies the equitable **representation and participation of minorities in the political process**.

As in all other countries of the region, the situation of the **Roma** population, estimated at 75-100,000, is the worst. There have been cases reported of local governments or local population illegally occupying lands where Roma settlements used to be, thus preventing Roma refugee return. Many Roma lack IDs, which prevents their access to health insurance, social benefits, housing and property reconstruction. Correspondingly, the Roma minority also has the lowest refugee return and housing reconstruction rates in the entire country. Less than 1% of Roma are employed in the public sector and only around 1.5% of Roma of working-age are employed today, compared with about 50% before the war. Roma women and children are often the victims of trafficking and/or are forced to beg in the streets. Less than 35% of Romani children regularly attend school because of poverty, pressure from within their own community and harassment from local non-Roma communities. Roma have no political representation at the State or Entity levels, and very limited representation in local government (in 2008, only one councillor).

### 3.3. Croatia<sup>16</sup>

The European Commission has identified deficiencies in reforms in a number of sectors with direct or indirect relevance for minority protection, including judicial and administrative reform; prosecution of war crimes, including stronger and more effective witness protection, reintegration of refugees and displaced persons, and minority rights.

Violence against, and harassment of, **religious minorities** remains a problem in Croatia, with the most frequent victims being the Serb Orthodox, and to a smaller extent Jewish and Islamic communities. Roma and Serbs continue to be the most affected by **inter-ethnic violence**. While violence against **Serbs** has declined and the law enforcement and judicial processes have become more effective in prosecuting perpetrators over time, the situation of the **Roma** has not dramatically improved, and they continue to experience violence, harassment, and discrimination, exacerbated by limited Croatian language knowledge, lack of education, lack of citizenship and identity documents, and high unemployment. Moreover, government efforts at de-segregation in the education system have frequently met with parents of non-Roma students resisting such moves. Consequently, more tolerance is required towards the Serb and Roma minorities, as well as more proactive state protection and intervention in cases of discrimination and violence.<sup>17</sup>

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<sup>15</sup> European Commission 2007 Enlargement Strategy Paper (conclusions) and Bosnia and Herzegovina Progress Report;

<sup>16</sup> Unless otherwise indicated, we rely primarily on the following sources: Second Report submitted by Croatia pursuant to Article 25, paragraph 1 of the Framework Convention for the protection of national minorities. Received on 13 April 2004. [http://www.coe.int/t/e/human\\_rights/minorities/2\\_framework\\_convention\\_\(monitoring\)/2\\_monitoring\\_mechanism/3\\_state\\_reports\\_and\\_unmik\\_kosovo\\_report/2\\_second\\_cycle/PDF\\_2nd\\_SR\\_Croatia.pdf](http://www.coe.int/t/e/human_rights/minorities/2_framework_convention_(monitoring)/2_monitoring_mechanism/3_state_reports_and_unmik_kosovo_report/2_second_cycle/PDF_2nd_SR_Croatia.pdf). Country Reports on Human Rights Practices (2005-7), Released by the Bureau of Democracy, Human Rights, and Labor, the U.S. Department of State. <http://www.state.gov/g/drl/rls/hrrpt/2007/100553.htm>, <http://www.state.gov/g/drl/rls/hrrpt/2006/78806.htm>, <http://www.state.gov/g/drl/rls/hrrpt/2005/61642.htm>. Human Rights Watch World Reports (2006-8). <http://hrw.org/wr2k8/pdfs/croatia.pdf>, <http://hrw.org/wr2k7/pdfs/croatia.pdf>, <http://hrw.org/english/docs/2006/01/18/croati12239.htm>; Croatian Helsinki Committee Annual Reports (2004-5). [http://www.hho.hr/adminmax/files/documents/873121900\\_HHO\\_godisnji\\_izvjestaj\\_2005.pdf](http://www.hho.hr/adminmax/files/documents/873121900_HHO_godisnji_izvjestaj_2005.pdf), [http://www.hho.hr/adminmax/files/documents/CHC\\_2004\\_-\\_annual\\_report\\_english.pdf](http://www.hho.hr/adminmax/files/documents/CHC_2004_-_annual_report_english.pdf).

<sup>17</sup> European Commission 2007 Enlargement Strategy Paper (conclusions) and Croatia Progress Report.

Despite plans and promises about completing **refugees** return by end of 2006, there are still no housing solutions for the former social rights tenancy holders, and especially not in the urban centres. The newest deadline for resolution of the situation remains 2009 and over 20,000 families are eligible.<sup>18</sup>

**Property restitution** to religious communities whose land and buildings had been nationalized by the Yugoslav communist regime has progressed much more slowly in the case of Serb Orthodox and Jewish communities than with property of the Roman Catholic Church.

In terms of **cultural rights**, with the exception of the Italian minority in Istria, there is insufficient broadcasting in the languages of all other minorities as well as a lack of minority members working on the production of those programmes. The government allocated approximately €5 million in 2007 to fund various minority associations and cultural programmes. This represented a 25% increase compared to the budget of 2006.<sup>19</sup>

**Political representation rights** for minorities in Croatia exist at local, regional and national level. There are currently 10 members of minorities among the 153 members of parliament, eight of whom were elected through reserved-seat under special arrangements guaranteeing seats to minority representatives. At the local level, it is a legal requirement for minorities who comprise more than 5% of the local population to be represented. The 2002 Constitutional Law on National Minorities also requires full proportional representation of minorities in public sector employment in all municipalities in which minorities constitute 15% of the local population or above.

Since 2007, the State Administration Office has included statistics on **minority employment** and recruitment targets at central and local level in the annual employment plan, but implementation of these targets is still slow and does not extend to the judiciary at all. Difficult economic situation was reported especially in the Croatian post-war areas, with Serbs experiencing up to 80% unemployment rate (example of Knin).<sup>20</sup> In 2007, the Croatian government was set to employ close to 300 members of minority communities in public administration at the central level and another 50 at the regional level. However, plans outlining a more detailed strategy for employing members of minority communities personnel are missing at all levels and in all sectors of public administration.<sup>21</sup>

In regard to **Decade of Roma Inclusion**,<sup>22</sup> Croatia signed the Declaration and ever since was reported to introduce random measures (there is no integrated policy) mostly in the area of Roma education. Among measures are free preparatory programme for preschool children; scholarships and free accommodation for high school and university pupils. There is also reported segregation in separate classes in schools and enrolment of Roma children in special curricula for children with special needs, but despite complaints and criticism Ministry of Education has not introduced a desegregation policy.

According to the Office of National Minorities, the total figure of Roma children in preschool programmes rose from 345 in 2005-2006 to 707 in 2006-2007 and also the number of teaching assistants are hired but their role is limited to translating and imposing discipline only. According to the 2001 census, 32.6% of Roma (above the age of 15) are without any education (the comparable figure for the non-Roma population remains at 2.9%). 18.8% finished elementary school and further 5.9% high school. To remedy the situation, in 2002 already, the government initiated a literacy programme for adults. Partly because of poor advertising, however, the programme's effectiveness was limited with merely 83 people enrolling.

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<sup>18</sup> Draft Report on the Delegation visit of the Sub-Committee on Human Rights to Croatia on 17-20 September 2007 (31 January 2008).

<sup>19</sup> European Commission 2007 Enlargement Strategy Paper (conclusions) and Croatia Progress Report.

<sup>20</sup> Draft Report on the Delegation visit of the Sub-Committee on Human Rights to Croatia on 17-20 September 2007 (31 January 2008).

<sup>21</sup> European Commission 2007 Enlargement Strategy Paper (conclusions) and Croatia Progress Report.

<sup>22</sup> DecadeWatch: Roma activists assess the progress of the decade of Roma inclusion (2007) at [http://demo.itent.hu/roma/portal/downloads/DecadeWatch/DecadeWatch\\_-\\_Complete\\_\(English\\_Final\).pdf](http://demo.itent.hu/roma/portal/downloads/DecadeWatch/DecadeWatch_-_Complete_(English_Final).pdf).

In terms of **housing**, an important achievement has been the start of legalization process of Roma settlements. In the Medjimurje County, where the majority of Roma resides, the status was resolved of nine such settlements (out of a total of 13). Due to problems with residence registration, Roma are usually ineligible to qualify for the local social housing programmes.

Government-set targets for Roma **employment** have not been met either. According to available data, 21,381 Roma are registered recipients of social assistance. Also, the ministries involved with Decade of Roma have not employed a single Roma.

### 3.4. Kosovo<sup>23</sup>

**Discrimination** against members of ethnic minorities in Kosovo is fairly widespread. Serbs and the Serbian Orthodox Church are the primary targets, but other minority communities also suffer from abuse and discrimination in relation to employment, social services, language use, freedom of movement, the right to return, etc. Serbs in particular are also limited in the exercise of their property rights. On the other hand, sporadic incidents of violence and intimidation continue to limit freedom of movement for Kosovo Albanians in northern Kosovo. Also, the Serb community still see their freedom of movement restricted because of security concerns.

There are more than 250,000 **refugees and internally displaced persons (IDPs)** who are expected to return to their homes in Kosovo. In this respect, municipal community safety councils, local public safety councils as well as mediation committees have been established in all municipalities. A strategy for the repatriation of asylum seekers rejected by western European countries was adopted in May 2007. However, very few people returned voluntarily to Kosovo as there is so far no internationally legal, final status settlement for Kosovo. The human resources of the Ministry for Return and Communities and its overall capacity and budget are insufficient to proceed with the implementation of documented return projects. IDPs from all communities face housing problems due to the insufficient budgetary allocation and encounter problems in being registered in the civil records.<sup>24</sup>

To the extent that minority communities are **financially supported**, it is noteworthy that the Ministry of Education, Science and Technology provides text books free of charge for pupils belonging to Roma, Ashkali, and Balkan-Egyptian communities (283 sets at a cost of €8,900). There is also financial support for the celebration of the International Day of Roma on 8 April every year.

Of a total of 111 **radio and television** stations currently under license, 108 are private and three public. Of these, 33 are predominately or exclusively Serb radio and television stations; 3 are Bosniak language stations; 2 are Turkish-language stations and one is Gorani. A total of 13 Albanian stations and 5 predominately minority-language stations also broadcast in a variety of minority languages including Kosovo Roma, Kosovo Ashkali, Kosovo Gorani, Kosovo Turkish and Kosovo Bosniak. The proportion of stations devoted primarily or exclusively to minority languages in Kosovo in most cases substantially exceeds the estimated percentages of the respective populations represented by non-majority communities. Radio Television Kosovo (RTK) minority programmes still amount less than the 15% of broadcasting required by law mainly because the relevant financial resources have not been distributed by the minority media found.

Two systems of **education** currently operate in Kosovo. All primary and secondary schools located either in Kosovo Serb enclaves or in municipalities where the Kosovo Serb community represents the

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<sup>23</sup> Unless otherwise indicated, we rely primarily on the following sources: US State Department Country Reports on Human Rights Practices - 2007 Released by the Bureau of Democracy, Human Rights, and Labour, March 11, 2008, <http://www.state.gov/g/drl/rls/hrrpt/2007/100583.htm>; Report Submitted by The United Nations Interim Administration Mission in Kosovo (UNMIK) pursuant to article 2.2 of the Agreement between UNMIK and the Council of Europe related to the Framework Convention for the Protection of the National Minorities, 2005, [http://www.coe.int/t/e/human\\_rights/minorities/Country\\_specific\\_eng.asp#P4\\_36](http://www.coe.int/t/e/human_rights/minorities/Country_specific_eng.asp#P4_36); SHADOW REPORT on the Implementation of the Framework Convention for the Protection of National Minorities in Kosovo, Pristina, September 2005, <http://www.mineles.lv/reports/S&M/Praxis%20Shadow%20Report%20FCNM.doc>; Human Rights Watch, <http://www.hrw.org/countries.html>, Amnesty International Report 2007; <http://thereport.amnesty.org/eng/Regions/Europe-and-Central-Asia/Serbia>.

<sup>24</sup> European Commission 2007 Enlargement Strategy Paper (conclusions) and Kosovo Progress Report.

majority use the curriculum of the Serbian Ministry of Education and Sports (SMES). The SMES provides these schools with textbooks, diplomas and stamps. Both teachers and support staff are supervised by the SMES and receive salaries both from the latter and from the Kosovo Ministry of Education, Science and Technology.

Education is organised in the following four languages: Albanian, Serbian, Bosniak and Turkish. Roma, Ashkali and Balkan-Egyptians attend classes in the languages used in the area in which they live. Majority of them attend lessons in Albanian language and a smaller part in Serbian and Bosniak language. Romani, Ashkali, and Balkan-Egyptian children attended mixed schools with ethnic Albanian children but occasionally face intimidation in some majority Albanian areas. Romani children additionally tend to be disadvantaged by poverty, leading many to start work both at home and in the streets at an early age to contribute to family income. Some Bosniak children in predominantly Bosniak areas were occasionally able to obtain primary education in their language, but those outside such areas received instruction in the majority Albanian language.<sup>25</sup>

In July 2007, the ministry adopted a strategy for the education of Roma, Ashkali and Egyptians. This is in accordance with the tripartite memorandum of understanding signed by the Prime Minister, OSCE Mission in Kosovo and the Kosovo Foundation for an Open Society for the development of a Kosovo Strategy for the Integration of Roma, Ashkali and Egyptians. Still, school attendance by Roma, Ashkali and Egyptian children is poor at all levels of education, with less than 10% of all Roma children attending primary schools.

Kosovo's **political process** is dominated by four virtually mono-ethnic Albanian parties, but there are also some ethnic minority parties and coalitions. In 2005, there were 21 ethnic minority members in the 120-seat Assembly, including 10 ethnic Serbs and 11 members of other groups, including ethnic Turks, Bosniaks, Gorani, Roma, Ashkali, and Balkan-Egyptians. There were two minority cabinet members, one ethnic Serb and one Bosniak, and three minority deputy ministers. One Bosniak and one ethnic Turk held a rotating seat on the Assembly presidency; the Serb boycott left empty the reserved seat for one ethnic Serb. After the November 2007 elections, there were 24 ethnic minority members in the 120-seat Kosovo Assembly, including 10 Kosovo Serbs and 14 members of other groups, including ethnic Turks, Bosniaks, Gorani, Roma, Ashkali, and Balkan-Egyptians. There were three minority cabinet ministers—two Kosovo Serbs and one Kosovo Bosniak—and one Serb deputy minister. The seat of one Serb minister was kept vacant, as the designated Serb party refused to take the position. One Kosovo Bosniak and one Kosovo Turk held a rotating seat on the Kosovo Assembly presidency; the boycott by one of the Kosovo Serb parties left empty the eight seats set aside for Kosovo Serbs. Such boycotts of the political process by Serbs (especially those from the northern region around Mitrovica) have been frequent over the years and continue to make it difficult to test the real level of commitment to minority protection on the part of Kosovo Albanians.

Ethnic minorities in general faced structural obstacles in conducting political campaign activities. The profile of the political campaigns and attitudes of voters from non-majority communities was determined by limited financial resources, restricted freedom of movement of small local entities and the inability to mobilize the “diaspora” electorate.<sup>26</sup>

In September 2007, the Kosovo Assembly passed a **language law**, making Serbian the second official language in Kosovo and setting a 5%- threshold for making a language spoken by an ethnic minority official in a municipality. The law provides that Turkish will continue to be the third official language in Prizren regardless of the size of the Turkish population in the municipality.

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<sup>25</sup> For gender mainstreaming and equal opportunities in Education see EC Toolkit on Mainstreaming Gender Equality in EC Development Cooperation, Section 1, Chapter 1; Section 2, Chapter 1.4; at: <http://ec.europa.eu/comm/europeaid/projects/gender/toolkit/content/toolkit.htm>.

<sup>26</sup> Minority Issues Mainstreaming: A Practical Guide for European Agency for Reconstruction Programmes, European Centre for Minority Issues (ECMI), 2006.

Access to **employment**, particularly in the private sector, is affected by minorities' linguistic capabilities and persistent direct and indirect discrimination. Thus, most minorities, in particular Serbs, have returned to rural environments and survive on subsistence farming. The public sector is the largest employer of minorities, but international institutions report that in 2006 it employed less than 1% of minority community members. Employment services in Serb enclaves are linked to employment in Serbia.<sup>27</sup>

### 3.5. FYROM<sup>28</sup>

**Discrimination** against ethnic minorities, particularly Roma, remains frequent in FYROM, despite the fact that the constitution and law prohibit such discrimination. According to the Roma NGO DROM, in 2007 hostility towards Roma continued, but the instances of direct attacks diminished significantly. Roma were often denied job opportunities, access to public welfare funds, and entrance to establishments such as restaurants and cafes. Roma had the highest rate of **unemployment** and the lowest personal and family incomes, were the least educated, and had the highest mortality rates of any ethnic group. The government provided few social services to Roma, despite reports that unemployment among the Romani population was above 70%. In some instances, Romani parents resisted sending their children to school due to their inability to pay for books and other fees or because they preferred for their children to work, either at home or on the streets. Ethnic Turks also complained of discrimination. Their main concerns were slow progress in achieving equitable representation in government institutions, the absence of Turkish majority municipalities following the 2004 municipal redistricting, and the inadequacy of Turkish-language education and media.

**Abuse of minorities by the police** also remains a problem, the victims most frequently being Roma and ethnic Albanians. This is partly due to the ethnic imbalance in the police force: 21% of police belong to ethnic minorities (the government target is 25%), and Albanians, while 25% of the population, make up only 17% of the police force.

The total **funds** allocated by the government of FYROM for special projects on minority rights in 2007 were €300,000. Some other funds have been allocated by the Budapest Roma Education Fund, specifically in order to increase the number of Roma children that are attending school.

The government supported various **music and stage art activities, gallery presentations and publications**. In the publishing sector, support was given to 27 publishing houses of the Albanian community with a total of 52 titles, as well as for two books by Albanian authors published by other publishing companies and 6 magazines.

In relation to minority(-language) **media**, there are 165 programmes in the Albanian language, 31 in Roma, nine in Turkish, ten programmes in Bosniak, several interactive programmes in Macedonian, and 32 in Albanian languages. In addition, there is a significant number of programmes in

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<sup>27</sup> Minority Issues Mainstreaming: A Practical Guide for European Agency for Reconstruction Programmes, European Centre for Minority Issues (ECMI), 2006.

<sup>28</sup> Unless otherwise indicated, we rely primarily on the following sources: US State Department Country Reports on Human Rights Practices - 2007 Released by the Bureau of Democracy, Human Rights, and Labour, March 11, 2008. <http://www.state.gov/g/drl/rls/hrrpt/2007/100544.htm>; First Report Submitted by "The Former Yugoslav Republic of Macedonia" pursuant to article 25, Paragraph 1 of the Council of Europe's Framework Convention for the Protection of the National Minorities, 2003. [http://www.coe.int/t/e/human\\_rights/minorities/Country\\_specific\\_eng.asp#P4\\_36](http://www.coe.int/t/e/human_rights/minorities/Country_specific_eng.asp#P4_36); Second Report Submitted by The Former Yugoslav Republic of Macedonia pursuant to article 25, Paragraph 1 of the Framework Convention for the Protection of the National Minorities, Strasbourg 2006. [http://www.coe.int/t/e/human\\_rights/minorities/Country\\_specific\\_eng.asp#P4\\_36](http://www.coe.int/t/e/human_rights/minorities/Country_specific_eng.asp#P4_36); Advisory Committee Report on the Framework Convention for the Protection of National Minorities; Opinion on "the former Yugoslav Republic of Macedonia", adopted on 27 May 2004 Strasbourg 2005. [http://www.coe.int/t/e/human\\_rights/minorities/Country\\_specific\\_eng.asp#P4\\_36](http://www.coe.int/t/e/human_rights/minorities/Country_specific_eng.asp#P4_36); Advisory Committee Report on the Framework Convention for the Protection of National Minorities; Comments of the government of "The Former Yugoslav Republic of Macedonia" on the opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in The Former Yugoslav Republic of Macedonia, received on 10 January 2005. [http://www.coe.int/t/e/human\\_rights/minorities/2\\_framework\\_convention\\_\(monitoring\)/2\\_monitoring\\_mechanism/5\\_comments\\_by\\_the\\_states\\_concerned/1\\_first\\_cycle/PDF\\_1st\\_comments\\_FYROM.pdf](http://www.coe.int/t/e/human_rights/minorities/2_framework_convention_(monitoring)/2_monitoring_mechanism/5_comments_by_the_states_concerned/1_first_cycle/PDF_1st_comments_FYROM.pdf); Human Rights Watch, <http://www.hrw.org/countries.html>; Amnesty International Report 2007; <http://thereport.amnesty.org/eng/Regions/Europe-and-Central-Asia/Macedonia>.

Macedonian that refer to the culture, traditions and languages of non-majority communities, including of Vlachs.

According to existing legislation, **the languages of ethnic minorities** must be recognized as additional official languages in areas where those minorities comprise at least 20% of the population. In those areas citizens have the right to communicate with local offices of the central government in the language of the minority group and to receive responses and personal documents in the same language; however, this does not always occur in practice. Under the law those accused of crimes have the right to translation at state expense of all relevant judicial proceedings and documents; this does not always occur in practice either. A Law on Languages had been proposed to parliament in 2006 but not passed by 2008. The absence of a law stands in contradiction with the Ohrid Framework Agreement and such a law could simplify the use of language in public, which is currently determined by nine separate laws (for education, government offices, etc.).<sup>29</sup>

Legislation provides for primary and secondary **education** in the languages of the ethnic minorities. Primary education is available in Macedonian, Albanian, Turkish, and Serbian. The number of ethnic minority students who received secondary education in their native languages continued to increase; however, ethnic Albanians complain that distribution of public educational resources was not proportional to ethnic groups' representation within the general population. Ethnic minorities remained underrepresented in university-level education, although there has been progress in increasing the number of minority students since the 2004 recognition of the predominantly ethnic Albanian Tetovo State University. According to Article 8 of the Law on Primary Education ("Official Gazette of Republic of Macedonia", No. 52/2002), students from the minority communities are obliged to learn the Macedonian language, too.

According to existing laws, all ethnic groups should be able to use textbooks in their mother tongue. In practice, there is little funding in order to provide necessary materials. Schools with instruction in Albanian, especially city schools, work under very difficult conditions (especially in relation to lack of space). Approximately half of all ethnic minority students do not go on to high school due to lack of classes in minority languages at the secondary level. Many rural, ethnic Albanian families also withdraw girls from school at age 14.

According to Romani community leaders, up to 10% of Romani children never enrol in school. Of those who do enrol, 50% drop out by fifth grade, and only 35 to 40% finish the eighth grade. In ethnically mixed schools, Romani children are normally taught in classes with other pupils, i.e., there is no specific policy of in-school segregation. At times, however, Romani students are sent to special schools for Roma; in some instances at the request of parents (pupils in such schools received food and clothing), and in others because educators judge that the students lacked the minimum preparation to enter regular primary school.

Especially smaller minority communities are relatively **underrepresented politically** in parliament and in municipal councils. In 2005 there were 26 ethnic Albanians, 1 Muslim, 1 Roma, 3 Turks, 2 Serbs, 2 Bosniaks and 1 Vlach in the 120-seat parliament. There were six members of minorities in the 19-member Council of Ministers. The situation improved in 2006 and 2007 when there were 28 ethnic Albanians, two Roma, two Turks, one Serb, one Bosniak, one 'Macedonian Muslim', and one Vlach in the 120-seat parliament. There were seven members of minorities in the 23-member Council of Ministers.

All **governments** elected by the FYROM parliament since independence have been coalition governments, in which one of the parties of the Albanian community acted as a coalition partner.

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<sup>29</sup> Law on Languages a key Issue in Macedonia, February 2006 at <http://ciemen.org/mercator/notidetail.cfm?IDA=871&lg=gb>.

In the first half of 2005, **unemployment** was 38% of the work force, up from 32.3% in 2000, but less than 40% in 2006 and 2007. Most minority communities live in rural areas and most employment opportunities are concentrated in towns and cities, therefore minorities are geographically excluded from a large majority of potential jobs in industry and services. According to the Framework Agreement's secretariat, in 2006 approximately 300 Albanian and other minority representatives were employed in state institutions. By the end of 2007, their number had risen to 783. In addition, over 1,700 minority representatives were employed in public enterprises, courts, and other bodies under the purview of the secretariat.

In 2006, the budget for the implementation of the Ohrid Framework Agreement implementation was slightly more than \$1 million (44 million denars); rising to \$3.6 million (150 million denars) in 2007 and to over \$4.8 million (200 million denars) in 2008.

### 3.6. Montenegro<sup>30</sup>

**Discrimination** against ethnic minorities was and remains a problem in Montenegro, and is particularly widespread in the case of Roma. Local authorities often ignore or tacitly condone intimidation and abuse of Roma, some of whom are IDPs from Kosovo. In 2007, 76% of Roma were illiterate, 80% did not speak the local language, 90% were officially unemployed, 40% had no access to public utilities, and 90% lived below the poverty level. This marked a slight improvement in terms of unemployment (at 95% in 2005 and 2006), but the situation had worsened in terms of illiteracy and language competence.

An additional problem is **police harassment** of ethnic minorities, particularly of Roma and Albanians, who suffer from racial abuse, ill-treatment and, in some cases, torture at the hands of police officers.

**Government funding** for minority-related projects happens, but at extremely low levels. For example, the government allocated €17,000 to the programme “Roma presence in the labour market” and €35,000 to the “Second Chance” project, while the Ministry of Education and Science supported a programme for scholarships for Roma pupils in secondary schools and allocated €14,000 for minority education purposes. Minorities, thus, remain heavily dependent on foreign support.

By law, minorities benefit from **autonomy of cultural institutions and freedom of religious manifestations**. In the sphere of education, culture and information, measures have been implemented to enhance equality through concrete projects and programmes. The Ministry of Culture, Sports and Media, for example, assists ethnic minorities in publishing magazines and books in their own language, in the presentation of programmes of folklore, traditions and practices, and in cooperation with institutions in their kin-state.

Specific programming for minorities in the **media** remains rare due to the lack of legislation. The Albanian minority is the only community which has in recent years received access to minority-specific broadcasting and media. As pointed out by the Advisory Committee of the FCNM “other national minorities in Montenegro merit increased attention in the on-going process of developing a public broadcasting service”.<sup>31</sup>

Radio Montenegro broadcasts programmes in Albanian twice a day for 10-15 minutes each. There are also private and commercial radio stations that broadcast in Albanian. Also, Radio Montenegro is

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<sup>30</sup> Unless otherwise indicated, we rely primarily on the following sources: US State Department Country Reports on Human Rights Practices – 2005, 2006, 2007 Released by the Bureau of Democracy, Human Rights, and Labour, March 11, 2008, <http://www.state.gov/g/drl/rls/hrrpt/2007/100575.htm>; Report submitted by the Republic of Montenegro pursuant to Article 25, paragraph 1 of the Framework Convention for the Protection of National Minorities, Strasbourg 2007, [http://www.coe.int/t/e/human\\_rights/minorities/2\\_FRAMEWORK\\_CONVENTION\\_\(MONITORING\)/2\\_Monitoring\\_mechanism/3\\_State\\_Reports\\_and\\_UNMIK\\_Kosovo\\_Report/1\\_First\\_cycle/List%20of%20State%20Reports.asp#TopOfPage](http://www.coe.int/t/e/human_rights/minorities/2_FRAMEWORK_CONVENTION_(MONITORING)/2_Monitoring_mechanism/3_State_Reports_and_UNMIK_Kosovo_Report/1_First_cycle/List%20of%20State%20Reports.asp#TopOfPage); Amnesty International Human Rights Report 2007 at <http://thereport.amnesty.org/eng/Regions/Europe-and-Central-Asia/Montenegro>.

<sup>31</sup> Advisory Committee on the Framework Convention for the Protection of National Minorities, Opinion on Serbia and Montenegro, Strasbourg, 27 November 2003 ACFC/INF/OP/I(2004)002.

broadcasting 24 shows a year intended for the Roma population. A large number of printed media are published in Albanian, as well as in Croatian, Romani, and Bosniak.

The Montenegrin Commission for Education of National and Ethnic Groups approved the use of **textbooks in minority languages** and allows 15% to 20% of the teaching to be done in minority languages. Albanian is used at all educational levels, while education of other minorities, such as Bosniaks and Croats, happens within the single educational system.

Education in the Albanian language, however, strongly relies on translated textbooks from Serbian and devotes little space to Albanian history and culture (2.5% of the classes in primary and 5.9% in secondary schools).<sup>32</sup> The establishment of teacher training in Albanian has been the cause of tensions between the Albanian community and the government. At first, the government opened an Albanian language section in Nikšićin 2003, but it was boycotted by Albanians for its distance from the major Albanian settlement areas. The programme re-opened in 2004 in Podgorica with 45 students and faculty from the University of Montenegro and the University of Shkoder (Albania).

Roma experience the most significant problems with minority education: lack of teaching personnel, lack of standardisation of the Romani language, and lack of textbooks for conducting teaching in Romani. However, the Ministry of Education and Science has taken steps to increase the number of Roma children in the formal education system. It allocated textbooks free of charge and writing utensils for all Roma pupils in the first grade of primary school, and established a special database and monitored a number of students in order to measure the achievements of Roma students. As a consequence, in the last 5 years the number of Roma students in primary school increased annually by about 20%. As part of the project “Decade of Integration of Roma 2005-2015”, in 2007, the Ministry of Education and Science supported a programme of scholarships for Roma students that studied at Secondary and University levels.

Political representation of minorities in Montenegro is guaranteed by law. In practice, it takes place both through minority political parties and inclusion in mainstream parties. Ethnic Albanians, Muslims, Bosniaks, and Croats participate in the **political process**, and their parties, candidates, and voters participate in all elections. No Roma ran for, or held, seats in the Assembly. Only one Roma currently holds an elected office at any level in the country. In 1998, five seats in the parliament out of 78 were set aside for Albanian voters. These five seats were to be elected in polling stations in districts of Albanian settlement. In 2005, a total of 11 members of ethnic minorities were **represented in the 75-seat parliament** and 3 members of ethnic minorities in the **cabinet**. By 2006, the number of the members of ethnic minorities in the 81-seat Assembly had gone up to 14 members, but the number of the minorities members decreased to 2 in the cabinet. In 2007, minorities’ political representation improved slightly, with now 16 members of ethnic minorities in the 81-seat Assembly and two members of ethnic minorities in the cabinet. In July 2006, the Constitutional Court struck down a law that would have added reserved seats for Muslims, Bosniaks, and Croats.

### 3.7. Serbia<sup>33</sup>

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<sup>32</sup> Minority Issues Mainstreaming: A Practical Guide for European Agency for Reconstruction Programmes, European Centre for Minority Issues (ECMI), 2006.

<sup>33</sup> Unless otherwise indicated, we rely primarily on the following sources: Second Report submitted by Serbia pursuant to Article 25, paragraph 1 of the Framework Convention for the Protection of National Minorities. Received on 4 March 2008 at [http://www.coe.int/t/e/human\\_rights/minorities/2\\_framework\\_convention\\_monitoring/2\\_monitoring\\_mechanism/3\\_state\\_reports\\_and\\_unmik\\_kosovo\\_report/2\\_second\\_cycle/PDF\\_2nd\\_SR\\_Serbia\\_eng.pdf](http://www.coe.int/t/e/human_rights/minorities/2_framework_convention_monitoring/2_monitoring_mechanism/3_state_reports_and_unmik_kosovo_report/2_second_cycle/PDF_2nd_SR_Serbia_eng.pdf); Network of Committees for Human Rights in Serbia (CHRIS), Alternative Report submitted pursuant to Article 25 Paragraph 1 of the Framework Convention for the Protection of National Minorities, September 2007, [http://www.minelres.lv/coe/report/ShadowReport\\_Voivodina\\_CHRIS.pdf](http://www.minelres.lv/coe/report/ShadowReport_Voivodina_CHRIS.pdf); Vojvodina Centre for Human Rights (VHRC), Alternative Report submitted pursuant to Article 25 Paragraph 1 of the Framework Convention for the Protection of National Minorities, [http://www.minelres.lv/coe/report/ShadowReport\\_Voivodina\\_VHRC.pdf](http://www.minelres.lv/coe/report/ShadowReport_Voivodina_VHRC.pdf); Country Reports on Human Rights Practices (2005-7), Released by the Bureau of Democracy, Human Rights, and Labor, the U.S. Department of State, <http://www.state.gov/g/drl/rls/hrrpt/2007/100583.htm>, <http://www.state.gov/g/drl/rls/hrrpt/2006/78837.htm>, <http://www.state.gov/g/drl/rls/hrrpt/2005/61673.htm>; Human Rights Watch, World Report (2006-8), <http://hrw.org/englishwr2k8/docs/2008/01/31/serbia17679.htm>, <http://hrw.org/englishwr2k7/docs/2007/01/11/serbia14776.htm>; <http://hrw.org/english/docs/2006/01/18/serbia12242.htm>.



Inter-ethnic **violence** primarily affected **Roma**, who were the target of the majority of about 200 incidents in 2007. While the police investigate relatively few cases and/or refer a particular incident for prosecution, the situation in Serbia (one-third of cases investigated and some brought to court) still compares well with Bosnia or Croatia where hardly any perpetrator has ever been either identified or tried.

In terms of **violence**, in 2007, improvements have been reported in Vojvodina, while the situation in southern Serbia remains stable but tense with occasional incidents. The situation in Sandžak has worsened with ‘deepening of religious divisions within the Muslim community’ and even ‘outbreaks of violence’, similar to increasing intra-group tensions among Albanians in southern Serbia.<sup>34</sup>

**Refugees** from Kosovo—Serbs, Roma, and other members of non-Albanian communities—face serious difficulties obtaining identification papers and thus access to basic social services, including healthcare, because of a legal requirement to unregister at their previous address of residence. The lack of identification papers makes them ineligible for assistance otherwise provided for IDPs and refugees. The overall number of refugees in Serbia is 104,000 plus 208,000 IDPs. By the same token, the forcible return of **Roma refugees** from Kosovo, who had fled to Western Europe, causes problems as they do not feel safe to return to Kosovo and remain in Serbia without any access to public services, thus further exacerbating the **discrimination and segregation** this community suffers. However, the government of Serbia has begun to address some of the problems of the Roma community by lowering entry requirements for Roma in high schools and universities and by introducing special programmes aimed at improving Roma inclusion into the education system more generally.<sup>35</sup> Among other measures to address Roma education is the 2006 introduction of a compulsory pre-school year of education; and a 2006-2007 pilot project to train and place 20 Roma teaching assistants (funded by the EAR and implemented in cooperation with the OSCE).

An attempt to tackle **unemployment** of Roma involves efforts to secure Roma access to training and retraining programmes, and programmes to promote self-employment. Results are modest due to a low participation. The overall employment rate among Roma (69.9%) is not much worse than for the non-Roma population (66.8%). But the unemployment rate among Roma women is endemic with only 34.5% Roma women employed as opposed to 54% for non-Roma women.

In terms of **housing**, a national housing policy is still missing which affects Roma seriously. Only in some municipalities funds were made available for improvements and public works in Roma settlements. Out of 593 Roma settlements in Serbia, only 28% are legalized. A third of the settlements lack basic services such as electricity, public transportation, health clinics, schools and shops.

The Serbian government’s overall commitment to improving the situation of the Roma remains a major source of concern. Only a small number of pilot projects, exclusively funded by foreign agencies, have been implemented to date. Moreover, the lack of any coherent and comprehensive cross-ministerial policy vis-à-vis Roma is a significant failure on the part of the Serbian government, despite the fact that action plans in the areas of education, employment, housing and healthcare were prepared and passed in January 2005.

Over the past three years, **anti-Semitism** has been on the rise as well, manifesting itself in increased levels of vandalism, verbal and physical threats to members and property of the Jewish community in Serbia, and the circulation of anti-Semitic literature. Despite the passage of a relevant law in 2006, restitution of Jewish community property is slow at best. The lack of implementation of this law also affected other religious communities.

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Helsinki Committee for Human Rights in Serbia, *Human Rights: Hostage to the States’s Regression*, <http://www.helsinki.org.yu/doc/Report2006.pdf>.

Helsinki Committee for Human Rights in Serbia, *Human Security in an Unfinished State*, <http://www.helsinki.org.yu/doc/Report2005.pdf>.

<sup>34</sup> European Commission 2007 Enlargement Strategy Paper (conclusions) and Serbia Progress Report.

<sup>35</sup> Decade Watch (supported by OSI/World Bank): Roma activists assess the progress of the decade of Roma inclusion (2007). [http://demo.itent.hu/roma/portal/downloads/DecadeWatch/DecadeWatch%20-%20Complete%20\(English:%20Final\).pdf](http://demo.itent.hu/roma/portal/downloads/DecadeWatch/DecadeWatch%20-%20Complete%20(English:%20Final).pdf).

Hungarians, Roma, Albanians, Ashaklis and Croats in Vojvodina were exposed to various forms of **violence, discrimination, harassment, and neglect**. In the Sandžak region and southern Serbia, violence against Bosniaks and Vlachs is widespread. Bosniaks particularly resent the fact that their national identity has been ‘re-designated’ from nation to national minority and both groups lament the fact that they have very limited, if any, opportunity to exercise meaningful local self-government in their areas of residence. **Bosniaks in Sandžak** are concerned about the destruction of typical regional architecture in the area and the consequential erosion of the ‘ethno-cultural character’ of Sandžak. The right to use Bosnian as an official language, and the full recognition of it as a distinct language, rather than the same as Serbian but used with a different alphabet, has not been fully implemented in all relevant municipalities. This is related to some underlying assimilation trends intensified by the delay of introducing the Bosnian language as a properly taught subject in schools and as language of instruction in Bosniak-minority schools as well as a complete lack, so far, of Bosniak-language textbooks. Additionally, economic deprivation and under-development in the Sandžak region has recently exacerbated a trend towards depopulation with many members of the Bosniak community leaving the area.

The right to use minority languages in units of local government where the relevant group constitutes one-third or more of the local population remains largely unimplemented. A notable exception here is Novi Sad (the capital of Vojvodina) where this right was granted to the Hungarian and Ruthenian minorities, although their numbers do not reach legally prescribed figure. In general, and compared to other regions, Vojvodina has a better ratio of allowing the official use of one or more minority languages at local level. At the level of the province, official status has been granted to Hungarian, Slovak, Romanian, Ruthenian and Croatian languages, in addition to Serbian. In eastern and southern Serbia and Sandžak, similar status is enjoyed by the Bulgarian, Albanian and Bosniak communities. None of the Roma languages/dialects have so far been recognized officially by any local government.<sup>36</sup>

Except for some extra-curricular teaching, **education** in Roma languages/dialects remains unavailable, allegedly because of a lack of a standardized version of the language. Between 35 and 40% of Roma children do not speak Serbian and lack necessary skills to start school. This problem leads to many Roma children being placed in segregated classes or follow programmes for children with special needs. There is reported a 78% drop-out rate from otherwise obligatory elementary education.<sup>37</sup>

While the government does financially support **publications in minority languages, minority-language media and cultural events**, particularly in Vojvodina and southern Serbia, religious communities other than the Serbian Orthodox Church receive no state support at all. There are also significant inter-religious tensions between the Serbian Orthodox Church and other, ‘non-recognised’, orthodox churches (such as the Romanian and ‘Macedonian’ ones) which has a negative impact on national minorities like the Vlachs. **Vlachs** additionally suffer from a complete lack of mother-tongue education, no minority-language media, and minority-language church service in only one of 154 Vlach villages in eastern Serbia.

The level of **political representation and participation** of members of minorities varies considerably. Nationwide, latest figures suggest that 11.5% of the total number of local councillors in the Republic of Serbia are members of national minorities. On the other hand, only ten out of the 250 deputies in the National Assembly of the Republic of Serbia claim membership in a national or ethnic minority.

The 2006 EAR/ECMI guide reported minorities being underrepresented in local government and administration in municipalities where they are not a local majority.<sup>38</sup> Political representation at the

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<sup>36</sup> EAR/ECMI: Minority Issues Mainstreaming - A practical guide for EAR programmes (2006).

<sup>37</sup> EAR/ECMI: Minority Issues Mainstreaming - A practical guide for EAR programmes (2006).

<sup>38</sup> EAR/ECMI: Minority Issues Mainstreaming - A practical guide for EAR programmes (2006).

central level declined from 8 representatives in 1997 to only 2 in 2003 (Bosniak MPs). Part of the problem here is an electoral threshold of 5% which negatively affects chances of minority parties/representatives. The 2004 law requiring affirmative action in political representation of minorities was applied for the 2007 elections which resulted in greater representation of minorities in the parliament. In other organs of the state, minorities are generally under-represented, for example, there is a disproportionately low number of minority police officers in **Vojvodina**, and Bosniaks are under-represented in the administration and judiciary of the **Sandžak** region. Serbia still has not initiated legislation on elections of minority national councils, which prevents elections for the new councils. The main minority advisory body, the National Council of Minorities, has failed to meet since 2006.<sup>39</sup>

Regarding employment, the state of the Serbian economy has been especially detrimental to minorities forcing many to migrate in search of jobs elsewhere. This has led to a decline in minority populations in their traditional areas of settlement. The worst affected region is eastern Serbia (where some of the poorest units of local government are), which is inhabited by significant numbers of members of the Bulgarian and Romanian/Vlach minority. Similar economic hardship exists in Albanian-inhabited municipalities in southern Serbia. The Sandžak region, too, suffers from a higher-than-average unemployment rate.<sup>40</sup>

#### **4. Conclusion: Minority rights in the broader context of arrangements for minority protection in the Western Balkans**

There is **considerable variation in minority protection** across the countries in the region. To some extent, this is reflected in different laws and regulations (e.g., it seems that BiH has fewer legally binding rights for minorities than some of the other states), but especially in the implementation. More generally, implementation and enforcement of minority rights are (not surprisingly) the key and most problematic areas.

The **situation of the Roma** in the region remains particularly problematic, and the states appear to have few intentions or incentives to change this. This is an area which clearly needs to be prioritised in the relationship between the EU and the countries of the region in the association and accession process. This means providing adequate funds, but above all a credible strategy whose implementation is carefully monitored.

**Participation of minorities** is important in both a general sense and in relation to those dimensions of social, economic and political processes that particularly concern the conditions that are conducive to the preservation, expression and development of their identities. Thus, a proper assessment of the situation of minorities and the effectiveness of measures for the protection of their rights must not stop with an analysis of the legal framework, but also consider their involvement in policy formulation, decision-making, and policy implementation. The degree of political participation varies by minority and by country, and in relation to both the provisions made for participation and how meaningful they actually are in practice.

The application of **international human and minority rights instruments** and the conclusion of bilateral treaties and agreements have positive effects on the letter of the law, but are relatively limited in terms of their practical impact. Since it is implementation and enforcement that matter most (although actual legal provisions are, of course, an essential precondition), trying to design more treaties or getting the states to sign up to more frameworks is unlikely to make much of a real difference for minorities on the ground. What would be more important, instead, are effective monitoring mechanisms (such as provided under the Framework Convention) and complaints and enforcement procedures.

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<sup>39</sup> European Commission 2007 Enlargement Strategy Paper (conclusions) and Serbia Progress Report.

<sup>40</sup> EAR/ECMI: Minority Issues Mainstreaming - A practical guide for EAR programmes (2006).

As the countries of the Western Balkans are all in various stages of the accession process, **EU conditionality** is becoming more and more important. Here the 2004 and 2007 accession rounds offer important lessons of both success and failure. If possible, conditionality should be applied more specifically, i.e., tied to particular actions and programmes of a government, measured and monitored in a transparent way, and linked on the other side to EU policies or programmes that are particularly important for the government. Only then is it likely that conditionality will increase the incentives of a government to comply with EU demands. What should be avoided is to certify fulfilment of accession criteria while at the same time criticising countries for lack of progress in dealing with specific minority issues (as was the case, for example, in relation to the Roma in Hungary and Slovakia). This sends a message of impunity: why should governments take unpopular decisions like committing incredibly limited funds to improve the living conditions of widely disliked minority communities? At the same time, care needs to be taken not to set minorities up as scapegoats for a lack of progress in meeting accession criteria.

Countries in the region remain highly **dependent on external funding** for their minority policies. The availability of such funds from charities, third states and international organisations is obviously welcome, but all too often these funds are spent on various conferences and meetings leading to agreements about the development of action plans that are eventually never implemented. Very few available funds actually reach the intended beneficiaries, especially in the case of programmes aiming to improve the situation of the Roma. As external funds could have positive effects for the minorities, their use needs to be more carefully monitored and improved.

Moreover, external funding is at most a second-best solution compared to programmes funded directly from the state budget. **State funding** would make it more likely that programmes and outcomes become sustainable. Equally importantly, it also means that governments cannot ‘outsource’ or avoid their own primary responsibilities for conducting a meaningful policy of minority protection. Thus conditionality could also be applied on governments to provide adequate funding for minority-related programmes. This could be achieved through making some forms of EU financial support to the countries conditional on state-funded minority policy.

The **role of the European Parliament** in this process is important. On the one hand, the Parliament plays a key role in the accession and accession monitoring process. Given the centrality of minority rights and minority protection for the stability of the Western Balkans region, the Parliament should insist on a careful and balanced assessment of the degree to which individual countries meet relevant criteria and the Commission assessment of the situation. The Parliament might benefit from creating a specific monitoring mechanism that could enable it to liaise closely and cooperate effectively with the relevant Commission and Council institutions.

Moreover, because of its unique position among the EU institutions, the Parliament should take it upon itself to **engage directly with parliaments and governments, as well as civil society** of the countries of the Western Balkans and assist them in their efforts to conduct an effective minority policy. This may, for example, relate to advisory work, to fact-finding missions, and to engagement in specific cases of minority (or state) complaints. Importantly, the Parliament should seek to build local capacity for effective implementation and enforcement of minority rights, and for local monitoring thereof.

Finally, the European Parliament is also very well placed to ensure that the **regional dimension of minority protection** remains on the radar screen of policy makers in the Western Balkans and in Brussels. Given the recent and more distant history of the region, its demography, and the nature of intra-regional links and cooperation, it is unlikely that any single country will be able to resolve its own minority ‘issues’ by itself or in a strictly bilateral relationship with the European Union. Without improving regional cooperation, increasing trust and confidence between countries in the region, and without gradually de-politicising minority issues, it will be all too easy (and too tempting) for politicians who are sceptical of the European integration process to derail any efforts towards

association and membership by playing the ethnic card. What is therefore important is to build a regional alliance of majority and minority communities working jointly towards European integration across existing borders.

## **Appendix 1: The European institutional context of minority protection**

### **European Convention for Human Rights and Fundamental Freedoms (1950)**

#### Article 14 – Prohibition of Discrimination

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

*[Emphasis added.]*

### **The European Parliament: Resolutions and Mainstreaming**

- Resolutions
  - Resolution on a Community Charter of Regional Languages and Cultures and on a Charter of Rights of Ethnic Minorities (1981)
  - Resolution on Measures in Favour of Linguistic and Cultural Minorities (1983)
  - Resolution on the Languages and Cultures of the Regional and Ethnic Minorities in the European Community (1987)
  - Resolution on Linguistic Minorities in the European Community (1994)
- Mainstreaming
  - Other resolutions of the Parliament in areas as diverse as human rights policy, cross-border cooperation, international development aid, foreign and security policy, etc., make frequent references to the need for respect of human and minority rights.

### **Minority Protection as Criterion for the Recognition of New States (1991-1992)**

- Declaration on the Guidelines on Recognition of New States in Eastern Europe and the Soviet Union (December 1991): recognition dependent upon “guarantees for the rights of ethnic and national groups and minorities in accordance with the commitments subscribed to in the framework of the CSCE”

### **The Treaty on European Union (1992)**

#### Article 6

- (1) The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States.
- (2) The Union shall respect fundamental rights, as guaranteed by the European Convention for Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community Law.

#### Article 49

Any European State which respects the principles set out in Article 6(1) may apply to become a member of the Union. [...]

### **The Copenhagen Criteria (1993)**

- be a stable democracy, respecting human rights, the rule of law, and the protection of minorities; *[Emphasis added.]*
- have a functioning market economy;
- adopt the common rules, standards and policies that make up the body of EU law.

### **The Amsterdam Treaty (1997)**

#### Article 13

Without prejudice to the other provisions of this Treaty and within the limits of the powers conferred by it upon the Community, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. [*Emphasis added.*]

### **Charter on Fundamental Rights of the European Union (2000)**

#### Article 21 – Non-discrimination

- (1) Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited. [*Emphasis added.*]

#### Article 22 – Cultural, religious and linguistic diversity

The Union shall respect cultural, religious and linguistic diversity. [*Emphasis added.*]

### **Mechanisms and Institutions: OSCE / High Commissioner on National Minorities**

- The Office of the OSCE High Commissioner on National Minorities was established in 1992 to identify and seek early resolution of ethnic tensions that might endanger peace, stability or friendly relations between OSCE participating States.

### **Mechanisms and Institutions: Council of Europe**

- European Charter for Regional or Minority Languages (1992)
- Framework Convention for the Protection of National Minorities (1995)

### **Mechanisms and Institutions: Pact on Stability in Europe (1993-1995)**

- Aimed at establishing a range of bilateral treaties and declarations providing for good-neighbourly relations between countries in Central and Eastern Europe

## Appendix 2: Detailed census data

### 1. Bosnia and Herzegovina<sup>41</sup>

ETHNIC GROUP	1981		1991	
	Total	%	Total	%
Total	4,124,256	100.0	4,377,033	100.0
Albanians	4,396	0.1	4,925	0.1
Czechs	690	0.0	590	0.0
Croats	758,140	18.4	760,852	17.4
Germans	460	0.0	470	0.0
Hungarians	945	0.0	893	0.0
Italians	616	0.0	732	0.0
Jews	343	0.0	426	0.0
Macedonians	1,892	0.1	1,596	0.1
Montenegrins	14,114	0.4	10,071	0.2
Moslems	1,630,033	39.5	1,902,956	43.5
Polish	609	0.0	526	0.0
Romanies/Roma	7,251	0.2	8,864	0.2
Roumanians	302	0.0	162	0.0
Russians	295	0.0	297	0.0
Ruthenians	111	0.0	133	0.0
Slovaks	350	0.0	297	0.0
Slovenes	2,755	0.1	2,190	0.1
Serbs	1,320,738	32.0	1,366,104	31.2
Turks	277	0.0	267	0.0
Ukrainians	4,502	0.1	3,929	0.1
Yugoslavs	326,316	7.9	242,682	5.6
Others	946	0.0	17,592	0.4
Ethnically undeclared	17,950	0.4	14,585	0.3
Regional affiliation	3,649	0.1	224	0.0
Unknown	26,576	0.7	35,670	0.8

#### Notes:

1. No census has been held since 1991.
2. Estimated figure of total population as of 30.06.2006 is 3.842.762
3. Note an increase in 'others' between 1981-1991.

<sup>41</sup> Source: *Demographics, Thematic Bulletin*, Agency for Statistics of Bosnia and Herzegovina, Sarajevo, December 2007 p. 28

<http://www.bhas.ba/Arhiva/2007/TB/Demografija-hr.pdf>



## 2. Croatia<sup>42</sup>

ETHNIC GROUP	1981		1991		2001	
	Total	%	Total	%	Total	%
Croats	3,454,661	75.1	3,736,356	78.1	3,977,171	89.6
Albanians	6,006	0.1	12,032	0.25	15,082	0,34
Austrians	267	0.0	214	0.00	247	0,01
Bosniaks	-	-	-	-	20,755	0,47
Bulgarians	441	0.0	458	0.00	331	0,01
Czechs	15,061	0.3	13,086	0.27	10,510	0,24
Germans	2,175	0.1	2,635	0.06	2,902	0,07
Greeks	100	0.00	281	0.00	-	-
Hungarians	25,439	0.6	22,355	0.47	16,595	0,37
Italians	11,661	0.3	21,303	0.45	19,636	0,44
Jews	316	0.0	600	0.01	576	0,01
Macedonians	5,362	0.1	6,280	0.13	4,270	0,10
Montenegrins	9,818	0.2	9,724	0.20	4,926	0,11
Moslems	23,740	0.5	43,469	0.91	-	-
Polish	758	0.0	679	0.01	567	0,01
Roma	3,858	0.1	6,695	0.14	9,463	0,21
Roumanians	609	0.0	810	0.14	475	0,01
Russians	758	0.0	706	0.01	906	0,02
Ruthenians	3,321	0.1	3,253	0.07	2,337	0,05
Serbs	531,502	11.5	581,663	12.16	201,631	4,54
Slovaks	-	-	5,606	0.12	4,712	0,11
Slovenes	25,136	0.6	22,376	0.47	13,173	0,30
Turks	320	0.0	320	0.00	300	0,01
Ukrainians	2,515	0.1	2,494	0.05	1,977	0,04
Vlachs	16	0.0	22	0.00	12	0,00
Yugoslavs	379,057	8.2	106,041	2.22	-	-
Others	1,553	0.0	4,093	0.09	21,801	0,49
Non-determined	17,133	0.4	73,376	1.53	89,130	2,01
Regional affiliation	8,657	0.2	45,493	0.95	9,302	0,21
Unknown	64,737	1.4	62,926	1.32	17,975	0,41
<b>Total</b>	<b>4,601,467</b>	<b>100.0</b>	<b>4,784,265</b>	<b>100.0</b>	<b>4,437,460</b>	<b>100.0</b>

### Notes:

1. 2001 results - Note significant decline between 1991 and 2001 (double or even triple figures for all minorities) except Albanians, Austrians, Germans (small increase), Roma, and Russians.
2. Roma figures most likely severely understated.
3. Muslims are not necessarily later Bosniaks.
4. There are inconsistencies across different sources in names of groups such as Roma/Romanies, Romanians/Rumanians, Muslims/Moslems.
5. Figure for Serb minority in 1981 is retrieved from: Trifunovska, S. 1999, "Minority Rights in Croatia", *International Journal on Minority and Group Rights*, vol. 6, no. 4, pp. 463-482.

<sup>42</sup> **Sources:** 1991 and 2001 Population Censuses – the Bureau of Statistics  
 1981 Population Census: *Minorities in Croatia*, (2004), Minority Rights Group.  
 Trifunovska, S. 1999, "Minority Rights in Croatia", *International Journal on Minority and Group Rights*, vol. V6, no. 4, pp. 463-482.

### 3. Kosovo<sup>43</sup>

ETHNIC GROUP	1981		1991	
	Total %	Total %	Total	%
Albanians	1,226,736	77.4	1,596,072	81.4
Serbs	209,498	13.2	194,190	9.9
Muslims	58,562	3.7	66,189	3.4
Roma	34,126	2.2	45,760	2.34
Montenegrins	27,028	1.7	20,365	1.04
Turks	12,513	0.8	10,445	0.53
Croats	8,717	0.6	8,062	0.41
Others	4,584	0.2	11,656	0.6
Yugoslavs	2,676	0.2	-	-
<b>TOTAL</b>	<b>1,584,440</b>	<b>100.0</b>	<b>1,956,196</b>	<b>100.0%</b>

2003 Estimates by Statistical Office of Kosovo

<b>Total Population</b>	1,900,000
<b>Ethnic groups</b>	-
Albanian	88%
Serbian	7%
Other ethnic groups	5%

#### Notes:

1. For 2003 estimates by Statistical Office of Kosovo see: Statistical Office of Kosovo (2003). Kosovo and its Population: A Brief Description, June 2003 (revised version). Pristina: Statistical Office of Kosovo. Available at [http://www.sokkosovo.org/pdf/population/kosovo\\_andits\\_population.pdf](http://www.sokkosovo.org/pdf/population/kosovo_andits_population.pdf)  
This publication contains further statistics and a list of useful references.

2. **1991 Census:** due to the massive refusal of Albanians to contribute, the Yugoslav Statistical Office estimated the figures on the basis of 1981 census data and demographic indicators on Albanian population.

<sup>43</sup> **Source:** 1981 and 1991 Population Censuses in: *Demographic changes of the Kosovo population 1948-2006*, SOK March 2008, Statistical Office of Kosovo: <http://www.ks-gov.net/ESK/>

#### 4. FYROM<sup>44</sup>

	<b>POPULATION</b>	<b>% OF THE TOTAL POPULATION</b>
Macedonians <sup>45</sup>	1,297,981	64.17
Albanians	509,083	25.17
Turks	77,959	3.85
Roma	53,879	2.66
Serbs	35,939	1.78
Bosniaks	17,018	0.84
Muslims by nationality	2553	0.13
Aromanians	9695	0.47
Egyptians	3713	0.18
Montenegrins	2686	0.13
Hungarians	2003	0.1
Bulgarians	1417	0.07
Greeks	422	0.02
Russians	368	0.01
Slovenes	365	0.01
Poles	162	0.008
Ukrainians	136	0.007
Croats	129	0.006
Germans	88	0.004
Czechs	60	0.005
Slovaks	60	0.005
Jews	53	0.003
Italians	46	0.002
Austrians	35	0.002
Rusyns	24	0.001
Regionally affiliated	829	0.04
Non-declared	404	0.02
Others	5332	0.26

Notes:

1. According to the 2002 Census, 1417 Macedonians claimed a Bulgarian ethnic identity.

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<sup>44</sup> **Sources:**

2002 Census, The State Statistical Office of the Republic of Macedonia

[http://www.stat.gov.mk/english/glavna\\_eng.asp?br=18](http://www.stat.gov.mk/english/glavna_eng.asp?br=18)

CIA's World Factbook entry on the Republic of Macedonia <https://www.cia.gov/library/publications/the-world-factbook/print/mk.html>

<sup>45</sup> This also includes Goranci 5.86%.

## 5. Montenegro<sup>46</sup>

ETHNIC GROUP	1981		1991		2002	
	Total	%	Total	%	Total	%
Montenegrins	400,488	68.54	380,467	61.86	267,669	43.16
Serbs	19,407	3.32	57,453	9.34	198,414	31.99
Yugoslavs	31,243	5.35	26,159	4.25	1860	0.30
Albanians	37,735	6.46	40,415	5.57	31,163	5.03
Bosniacs	-	0	-	0	48,184	7.77
Egyptians	-	0	-	0	225	0.04
Italians	45	0.1	58	0.1	127	0.02
Macedonians	875	0.15	1072	0.17	819	0.13
Hungarians	238	0.04	205	0.03	362	0.06
Moslems	78,080	13.36	89,614	14.57	24,625	3.97
Germans	107	0.02	124	0.02	118	0.02
Roma	1471	0.25	3282	0.53	2601	0.42
Russians	96	0.02	118	0.02	240	0.04
Slovenians	564	0.10	369	0.06	415	0.07
Croats	6904	0.18	6244	1.02	6811	1.10
Others	816	0.14	437	0.07	2180	0.35
Nondeclared	301	0.05	1944	0.32	26,906	4.34
Regional affiliation	1602	0.27	998	0.16	1258	0.20
Unknown	4338	0.74	6076	0.99	6168	0.99
<b>TOTAL</b>	<b>584,310</b>	<b>100.00</b>	<b>615,035</b>	<b>100.00</b>	<b>620,145</b>	<b>100.00</b>

<sup>46</sup> **Source:** 2001 Census, Statistical Office of Montenegro.

[http://www.instat.gov.al/repoba/english/default\\_english.htm](http://www.instat.gov.al/repoba/english/default_english.htm)

<http://www.monstat.cg.yu/EngMeniGodisnjiPodaci.htm>

Montenegrin Censuses from 1909 to 2003 available at: <http://www.njegos.org/census/index.htm>

Vujadin Rudic, The Ethnic Structure of the Population in Montenegro. Source: *The Serbian Question in the Balkans*, University of Belgrade, publisher - Faculty of Geography, Belgrade 1995. Available electronically at: <http://www.rastko.org.yu/istorija/srbi-balkan/vrudic-montenegro.html>

## 6. Serbia<sup>47</sup>

ETHNIC GROUP	1981		1991		2002	
	Total	%	Total	%	Total	%
<b>Total</b>	7,729,236	100.0	7,822,795	100.0	7,498,001	100.0
Serbs	5,972,661	77.3	6,252,405	80.00	6,212,838	82.86
Montenegrins	120,438	1.6	118,934	1.52	69,049	0.92
Albanians	76,296	1.0	78,281	0.99	61,647	0.82
Bosniaks	-	-	-	-	136,087	1.81
Bulgarians	33,294	0.4	26,698	0.65	20,497	0.27
Bunjevacs	-	-	21,434	0.27	20,012	0.27
Czechs	3,182	0.0	2,767	0.0	2,211	0.03
Croats	140,650	1.8	97,344	1.24	70,602	0.94
Germans	5,210	0.1	5,172	0.1	3,901	0.05
Goranacs	-	-	-	-	4,581	0.06
Hungarians	390,321	5.0	343,800	4.39	293,299	3.91
Macedonians	47,930	0.6	45,068	0.55	25,847	0.34
Moslems	156,604	2.0	180,222	2.30	19,503	0.26
Roma	76,833	1.0	94,492	1.20	108,193	1.44
Romanians	53,676	0.7	42,316	0.54	34,576	0.46
Russians	2,649	0.0	2,473		2,588	0.03
Ruthenians	19,752	0.3	18,052	0.23	15,905	0.21
Slovaks	73,170	0.9	66,772	0.85	59,021	0.79
Slovenes	11,663	0.2	8,001	0.1	5,104	0.07
Ukrainians	5,513	0.1	5,042	0.1	5,354	0.07
Valachians	25,592	0.3	17,804	0.20	40,054	0.53
Others	18,403	0.2	60,467	5.07	31,723	0.16
Undeclared and undefined	7,701	0.1	10,718	0.1	107,732	1.44
Yugoslavs	439,265	5.7	293,168	3.7	80,721	1.08
Regional affiliation	6,584	0.1	4,841	0.1	11,485	0.15
Unknown	41,849	0.5	47,958	0.6	75,483	1.01

### Notes:

1. Results of Population Censuses refer to Serbia and Vojvodina only (without Kosovo or Montenegro)
2. Note enormous increase in the group of 'Undeclared and undefined' in between 1991-2002.
3. In addition, OSCE report lists few more groups and their population: Askhali 584; Egyptians 814; Greeks 572, [http://www.osce.org/documents/srb/2008/02/29908\\_en.pdf](http://www.osce.org/documents/srb/2008/02/29908_en.pdf)

### <sup>47</sup> Sources:

2002 Statistical Office of the Republic of Serbia  
<http://webzrzs.statserb.sr.gov.yu/axd/Zip/NEP1.pdf>

1981 & 1991 data directly obtained from the Statistical Office of Republic of Serbia.

## Appendix 3

### “Checklist” on Minority Rights

[NB. Not all of these questions are relevant for each state/entity/group, nor do they need to be asked every time a monitoring exercise takes place. Also, the effectiveness of minority protection/any minority rights regime cannot solely be judged on the basis of whether it includes ALL elements listed below.]

Have new minority rights been legislated, or new programs for ethnic or linguistic minorities been initiated?

Does the parliament monitor the implementation of minority rights and programs?

Is there a general policy with a long-term strategy for the implementation of minority rights and programs? Are there shorter-term action plans to coordinate and monitor implementation?

Does the country have anti-discrimination and/or equality legislation?

Is this legislation implemented?

Is there evidence of discrimination against minorities?

Are there provisions for positive discrimination or affirmative action in relation to minorities?

Are these provisions used and implemented?

Is there a public body/institution dedicated to such implementation and promotion?

Does the judiciary consider cases related to minority rights?

Is there a complaint procedure for minorities who feel their rights are not sufficiently respected, protected or otherwise implemented?

Have there been incidents of ethnically motivated violence against members of a minority? If so, how many? And how are they monitored?

How have these been dealt with by police, the judiciary or other elements of the administration of justice?

Are there programs to protect the cultural heritage of minorities?

Does this extend to particular cultural goods (e.g., culture *per se*, language, monuments, properties, etc.)? How are these programmes funded, implemented and monitored/assessed?

To what extent are the minorities themselves involved in the formulation, implementation and monitoring/assessment of these programmes? Do they have a degree of autonomy in terms of spending allocated funds on issues important to them in relation to their culture/cultural heritage?

Are minorities represented in the government/parliament/state administration and judiciary (along with other elements of the administration of justice including police)?

If so, how does their representation compare to their population shares?

Are there reserved seats for minorities in the parliament or sub-state assemblies?

Are (ethnic) minority parties banned by law?

Are there specific bodies or fora for minorities (e.g. ‘minority councils’)?

If so, which functions do they have, and how often do they meet?  
How are they financed (their activities and – if they are elected bodies – their elections)?

Is dual citizenship possible/allowed for persons belonging to minorities?

If there is the possibility of education in a minority language, have all members of the minority access to it?

What are the educational enrolment and educational achievements of minorities? Do these differ from the majority population?

Are there provisions for the use of minority languages in public life (especially in interactions with state authorities and public organisations)?

Are there provisions for bilingual signs and place names in areas of minority settlement (and beyond, e.g., national capital)?

Is there an official policy on personal names?

Are there media programs in minority languages?

Is there any monitoring of the portrayal of minorities in the media?

How high is unemployment among minorities?

If unemployment among minorities is disproportionately high, are there any programs aimed at reducing the disparity?

If there are programs aimed at minorities, how are they financed?

If they are included in the state budget, is the funding sufficient to implement the programs?

Are the funds committed in the budget actually spent?

Are there special programs for refugees and internally displaced persons?

How high is their rate of return?

What are the arrangements for their property rights?

Are there specific programs and arrangements for Roma?

How well are they funded and by whom? Are committed funds spent?

Is the implementation of programmes monitored and assessed? By whom? Does the monitoring and assessment process involve Roma organisations/individuals?

**Table 1: The Demography of Minorities in the Western Balkans**

	Total Population <sup>1</sup>	Minorities		
		Total	Per Cent	Individual Groups <sup>2</sup> (total number and per cent of total population)
<b>Albania</b> <sup>3</sup>	3,069,275 <sup>4</sup>	63,700 <sup>5</sup>	2.15%	Greek: 59,000 (2.0%) "Macedonian": 4,700 (0.15%)
<b>Bosnia and Herzegovina</b> <sup>6</sup>	3,842,762 <sup>7</sup>	51,989 <sup>8</sup>	0.8%	Montenegrin: 10,071 (0.2%) Roma: 8,864 (0.2%) Albanian: 4,925 (0.1%)
<b>Croatia</b> <sup>9</sup>	2001: 4,437,460	331,383	7.47%	Serb: 201,631 (4.5%) Bosniak: 20,755 (0.5%) Italian: 19,636 (0.4%)
<b>Kosovo</b> <sup>10</sup>	1,900,000 <sup>11</sup>	228,000	12%	Serb: 133,000 (7%) Other: 95,000 (5%)
<b>FYROM</b>	2,022,547	724,566	35.8%	Albanian: 509,083 (25.2%) Turks: 77,959 (3.8%) Roma: 53,879 (2.7%)
<b>Montenegro</b> <sup>12</sup>	620,145	352,476	56.84%	Serb: 198,414 (32.0%) Bosniak: 48,184 (7.8%) Albanian: 31,163 (5.0%)
<b>Serbia</b> <sup>13</sup>	7,498,001	960,705 <sup>14</sup>	12.52%	Hungarian: 293,299 (3.9%) Bosniak: 136,087 (1.8%) Roma: 108,193 (1.4%)



**Table 2: Constitutional and Other Legal Provisions for Minority Rights**

	Constitutional Provisions									Other Legislation					
	Non-discrimination	Positive discrimination	Political Participation Rights	Educational/Cultural Rights	Minority Language Rights	Electoral Provisions	Free Choice of Nationality	Ban on Positive Discrimination	Official Language	Minority Law		Language		Other	
										Permissive	Restrictive	Permissive	Restrictive	Permissive	Restrictive
<b>Albania</b>	Yes <sup>15</sup>	No	Yes <sup>16</sup>	Yes <sup>17</sup>	Yes <sup>18</sup>	No	No	No	Yes <sup>19</sup>	N.A.	N.A.	Yes	No	Yes <sup>20</sup>	No
<b>BiH</b>	Yes <sup>21</sup>	No	No	No	No	No	No	No	No	Yes <sup>22</sup>	No	Yes <sup>23</sup>	No	Yes <sup>24</sup>	No
<b>Croatia<sup>25</sup></b>	Yes <sup>26</sup>	Yes <sup>27</sup>	Yes <sup>28</sup>	Yes <sup>29</sup>	Yes <sup>30</sup>	Yes <sup>31</sup>	Yes <sup>32</sup>	No	Yes <sup>33</sup>	Yes <sup>34</sup>	No	Yes <sup>35</sup>	No	Yes <sup>36</sup>	No
<b>Kosovo<sup>37</sup></b>	Yes <sup>38</sup>	Yes <sup>39</sup>	Yes <sup>40</sup>	Yes <sup>41</sup>	Yes <sup>42</sup>	Yes <sup>43</sup>	No	No	No	N.A. <sup>44</sup>	N.A.	N.A.	N.A.	N.A.	N.A.
<b>FYROM</b>	Yes <sup>45</sup>	No	Yes <sup>46</sup>	Yes <sup>47</sup>	Yes <sup>48</sup>	Yes <sup>49</sup>	Yes <sup>50</sup>	No	Yes <sup>51</sup>	N.A.	N.A.	Yes <sup>52</sup>	Yes <sup>53</sup>	Yes <sup>54</sup>	No
<b>Montenegro</b>	Yes <sup>55</sup>	Yes <sup>56</sup>	Yes <sup>57</sup>	Yes <sup>58</sup>	Yes <sup>59</sup>	Yes <sup>60</sup>	Yes	No	No	N.A.	N.A.	Yes <sup>61</sup>	No	Yes <sup>62</sup>	No
<b>Serbia</b>	Yes <sup>63</sup>	Yes <sup>64</sup>	Yes <sup>65</sup>	Yes <sup>66</sup>	Yes <sup>67</sup>	No	No	No	Yes <sup>68</sup>	Yes <sup>69</sup>	No	Yes <sup>70</sup>	No	Yes <sup>71</sup>	No

**Table 3: International Minority Rights Instruments**

	<b>International Convention on the Elimination of All Forms of Racial Discrimination</b>	<b>International Covenant on Economic, Social, and Cultural Rights</b>	<b>International Covenant on Civil and Political Rights</b>	<b>Copenhagen Document of the Conference on European Security and Co-operation</b>	<b>(European) Framework Convention for the Protection of National Minorities</b>	<b>European Charter for Regional or Minority Languages</b>
<b>Albania</b>	Yes	Yes	Yes	Yes	Yes	No
<b>BiH</b>	Yes	Yes	Yes	Yes	Yes	Yes
<b>Croatia</b>	Yes	Yes	Yes	Yes	Yes	Yes
<b>FYROM</b>	Yes	Yes	Yes	Yes	Yes	Yes
<b>Montenegro</b>	Yes	Yes	Yes	Yes	Yes	Yes
<b>Serbia</b>	Yes	Yes	Yes	Yes	Yes	Yes

**Table 4: Bilateral Treaties and Agreements**

	Partner Countries	Provisions Extending to		
		Mutual Protection of Minorities	Transfrontier Co-operation	Recognition of Existing Borders
<b>Albania</b>	Greece <sup>72</sup>	Yes	Yes	Yes
	FYROM <sup>73</sup>	No	Yes	Yes
	Montenegro <sup>74</sup>	No	Yes	Yes
<b>BiH</b>	Croatia <sup>75</sup>	No	Yes	N.A.
	Serbia <sup>76</sup>	No	Yes	N.A.
<b>Croatia</b>	Hungary (1995) <sup>77</sup>	Yes	Yes	Yes
	Italy (1996) <sup>78</sup>	Yes	Yes	Yes
	Serbia (2005) <sup>79</sup>	Yes	Yes	Yes
	BiH <sup>80</sup>			
<b>FYROM</b>	Albania <sup>81</sup>	No	Yes	Yes
	Serbia <sup>82</sup>	Yes	Yes	Yes
<b>Montenegro</b>	Albania <sup>83</sup>	No	Yes	Yes
<b>Serbia</b>	Signed with: FYROM (2005); Hungary (2004); Romania (2004); Croatia (2005) <sup>84</sup>	Yes <sup>86</sup>	Yes	Yes <sup>87</sup>
	Succession: Ukraine (1996); Slovakia (1996); FYROM (1998); Croatia (2002)	Collaboration in the fields of culture, education and sports.	Yes	Yes
	Agreement on special parallel relations with Republika Srpska (2006) <sup>85</sup>		Yes	

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## Notes

- <sup>1</sup> Official census data, unless otherwise indicated.
- <sup>2</sup> Largest three minority groups per country.
- <sup>3</sup> 2001 Census; [http://www.instat.gov.al/repoba/Rezultate\\_linqe/Tabelat\\_Web/Kapitulli1/tab\\_1.1.xls](http://www.instat.gov.al/repoba/Rezultate_linqe/Tabelat_Web/Kapitulli1/tab_1.1.xls)
- <sup>4</sup> 2001 Census [http://www.instat.gov.al/repoba/english/default\\_english.htm](http://www.instat.gov.al/repoba/english/default_english.htm)
- <sup>5</sup> Minority data for Albania are estimates by the Minority Rights Group International (<http://www.minorityrights.org/?lid=1376>). The 2001 census did not include any question on ethnic identity.
- <sup>6</sup> *Demographics, Thematic Bulletin*, Agency for Statistics of Bosnia and Herzegovina, Sarajevo, December 2007 p. 28. <http://www.bhas.ba/Arhiva/2007/TB/Demografija-hr.pdf>.
- <sup>7</sup> These and all further data in this row represent estimates as of 30 June 2006. See note 8.
- <sup>8</sup> Figure is from 1991 census and includes others, but without Bosniaks, Serbs, Croats, undeclared and undefined, Yugoslavs, regional affiliation and unknown.
- <sup>9</sup> The Bureau of Statistics of Croatia, *Population Census 2001*. Zagreb: The Bureau of Statistics of Croatia, 2002.
- <sup>10</sup> *Demographic changes of the Kosovo population 1948-2006, SOK March 2008*, Statistical Office of Kosovo: <http://www.ks-gov.net/ESK/>. Also includes data on earlier censuses. Note that due to the widespread refusal of Albanians to contribute, the Yugoslav Statistical Office estimated the 1991 figures on the basis of 1981 census data and demographic indicators for the Kosovo Albanian population.
- <sup>11</sup> Statistical Office of Kosovo (2003). Kosovo and its Population: A Brief Description, June 2003 (revised version). Pristina: Statistical Office of Kosovo. Available at [http://www.sokkosovo.org/pdf/population/kosovo\\_andits\\_population.pdf](http://www.sokkosovo.org/pdf/population/kosovo_andits_population.pdf). This and the following data in this row represent estimates only.
- <sup>12</sup> Statistical Office of Montenegro, *Population Census 2003*. <http://www.monstat.cg.yu/engPopis.htm>.
- <sup>13</sup> Statistical Office of the Republic of Serbia, *Population Census of 2002* [for Serbia and Vojvodina only}, <http://webzrzs.statserb.sr.gov.yu/axd/Zip/NEP1.pdf>.
- <sup>14</sup> Figure includes others, but without Montenegrins, undeclared and undefined, Yugoslavs, regional affiliation and unknown.
- <sup>15</sup> Albanian Constitution (21.10.1998), Art. 18 (2) <http://www.ipls.org/services/constitution/const98/cp2.html>
- <sup>16</sup> Idem. Art. 45 (1) and 46 (1); <http://www.ipls.org/services/constitution/const98/cp2.html>
- <sup>17</sup> Idem. Art. 10 (1); 20 and 24 (2). <http://www.ipls.org/services/constitution/const98/cp1.html>
- <sup>18</sup> Idem, Art. 20; <http://www.ipls.org/services/constitution/const98/cp2.html>
- <sup>19</sup> Idem. Art 14 (1). <http://www.ipls.org/services/constitution/const98/cp1.html>
- <sup>20</sup> Law no 9087/2003, revised January 2004- The electoral code of the Republic of Albania; Art. 3 (2); <http://www.lexadin.nl/wlg/legis/nofr/eur/lxwealb.htm>
- <sup>21</sup> BiH Constitution Art III, 4. + Art II, 2: reference to the international HR regulations: ‘The rights and freedoms set forth in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols shall apply directly in Bosnia and Herzegovina. These shall have priority over all other law.’
- <sup>22</sup> Law on the Protection of Minority Rights 2003, provisions on proportional representation of minorities in executive and judiciary + public services: VIII, 19 + 20 (Arts 21-23 on National Councils of Minorities)
- <sup>23</sup> Law on the Protection of Minority Rights 2003, provisions on minority language use: III, 11 + 12.
- <sup>24</sup> Law on the Protection of Minority Rights 2003, provisions on education IV, 13 + 14. + informing in minority languages 15+16; culture 17.
- <sup>25</sup> We subsume provisions in the Constitution of the Republic of Croatia (<http://www.constitution.org/cons/croatia.htm>) and in the Constitutional Law on the Rights of National Minorities ([http://www.osce.org/documents/mc/2002/12/1921\\_en.pdf](http://www.osce.org/documents/mc/2002/12/1921_en.pdf)) under ‘constitutional provisions’.
- <sup>26</sup> Croatian Constitution, Historical foundations, Art. 3
- <sup>27</sup> Croatian Constitution, Article 15; Constitutional Law Art. 22 paragraph 4 (priority in filling posts, under equal conditions)
- <sup>28</sup> Croatian Constitution, Article 15; Constitutional Law Art. 19 – parliamentary representation; Art 20 – local self-government representation; Art 22 – proportional representation in executive of local governments; minority representation ensured in administrative and judicial bodies; Art. 23 allows ‘councils and representatives of national minorities in self-government units’ + Art 25.
- <sup>29</sup> Croatian Constitution Art. 15 guarantees ‘freedom to use their language and script, and cultural autonomy’, but there is no explicit reference to education (though that is regulated in the Law on Minority Language’. Article 40 guarantees religious freedoms.
- <sup>30</sup> Croatian Constitution Art. 12
- <sup>31</sup> Croatian Constitution Art. 15
- <sup>32</sup> Croatian Constitution Art. 15 outlines: ‘Members of all national minorities shall be guaranteed freedom to express their nationality, freedom to use their language and script, and cultural autonomy.’ Constitutional Law, Article 5: ‘Every citizen of the Republic of Croatia shall have: the right to express freely that he is a member of a national minority in the Republic of Croatia;’
- <sup>33</sup> Croatian Constitution Art. 12; Constitutional Law Art. 11 paragraph 5 – ‘right and obligation’ of minority to learn the Croatian language and script.

- <sup>34</sup> Constitutional Law, Art. 7;
- <sup>35</sup> Constitutional Law, Art. 12, 13; + Law on the Use of Language and Script of National Minorities in the Republic of Croatia 2000
- <sup>36</sup> Constitutional Law Art. 18,19 – Radio&TV broadcasting in minority languages.
- <sup>37</sup> In relation to Kosovo, we draw on the constitution as approved by the Parliament of Kosovo on 9 April 2008; available at <http://www.kosovoconstitution.info/repository/docs/Constitution.of.the.Republic.of.Kosovo.pdf>.
- <sup>38</sup> Constitution of the Republic of Kosovo, Art. 1 (2); 3; 7; Chapters 2 and 3.
- <sup>39</sup> Constitution of the Republic of Kosovo, Art. 59 (3, 10, 11); 61; 62; 64 (2).
- <sup>40</sup> Constitution of the Republic of Kosovo, Art. 60; 62; 64 (2); 96 (2, 3); 103 (3); 104 (2, 3).
- <sup>41</sup> Constitution of the Republic of Kosovo, Art. 47; 58; 59.
- <sup>42</sup> Constitution of the Republic of Kosovo, Art. 5; 58; 59.
- <sup>43</sup> Constitution of the Republic of Kosovo, Art. 45; 62; 64.
- <sup>44</sup> At time of completing this Report, no information was available about further legislation.
- <sup>45</sup> Amendments of the 1991 Constitution (2001)  
[http://www.minelres.lv/NationalLegislation/Macedonia/Macedonia\\_Const2001\\_excerpts\\_English.htm](http://www.minelres.lv/NationalLegislation/Macedonia/Macedonia_Const2001_excerpts_English.htm)
- <sup>46</sup> 20.11.1991 Constitution; Articles: 69 (1991 Constitution + 2001 Amendments) , 77 (1; 2); 78 (2); 109 (2); 114 (1; 5);
- <sup>47</sup> Amendments of the 1991 Constitution (2001); Articles: 19 and 48;
- <sup>48</sup> Idem; Article 48;
- <sup>49</sup> Idem; Articles: 86 (2) and 104 (2);
- <sup>50</sup> Idem; Article 42 (2);
- <sup>51</sup> Amendments of the 1991 Constitution (2001); Article 7 (2) introduces the 20% limit for the minority population.
- <sup>52</sup> Law on Self-Government (2002), XIV. Official Languages in the Municipality: Art 90 (1;2)  
Law on Primary Education (1995) Articles: 8 (2), 13 (1; 2), 67 (1; 2; 3) and 81 (1; 2);  
[http://www.minelres.lv/NationalLegislation/Macedonia/Macedonia\\_PrimEduc\\_excerpts\\_English.htm](http://www.minelres.lv/NationalLegislation/Macedonia/Macedonia_PrimEduc_excerpts_English.htm)  
Law on Secondary Education (1995), Art. 3 (2) and 4 (2);  
[http://www.minelres.lv/NationalLegislation/Macedonia/Macedonia\\_SecEduc\\_excerpts\\_English.htm](http://www.minelres.lv/NationalLegislation/Macedonia/Macedonia_SecEduc_excerpts_English.htm)
- <sup>53</sup> Law on the publication of the laws and other regulations and acts in the “Official Gazette of the Republic of Macedonia (1999)  
Law on Secondary Education (1995), Art. 4 (3);  
[http://www.minelres.lv/NationalLegislation/Macedonia/Macedonia\\_SecEduc\\_excerpts\\_English.htm](http://www.minelres.lv/NationalLegislation/Macedonia/Macedonia_SecEduc_excerpts_English.htm)  
Law on Higher Education (2000), Art. 95 (1);  
[http://www.minelres.lv/NationalLegislation/Macedonia/Macedonia\\_HighEduc\\_excerpts\\_English.htm](http://www.minelres.lv/NationalLegislation/Macedonia/Macedonia_HighEduc_excerpts_English.htm)
- <sup>54</sup> Criminal Code 1996; Chapters 15 (Art. 137 and 138), 28 (Art. 319) and 34 (Art. 403, 408 and 417)  
[http://www.minelres.lv/NationalLegislation/Macedonia/Macedonia\\_CrimCode\\_excerpts\\_English.htm](http://www.minelres.lv/NationalLegislation/Macedonia/Macedonia_CrimCode_excerpts_English.htm)  
Law and Civic Procedure (1998),  
[http://www.minelres.lv/NationalLegislation/Macedonia/Macedonia\\_CivProc\\_excerpts\\_English.htm](http://www.minelres.lv/NationalLegislation/Macedonia/Macedonia_CivProc_excerpts_English.htm)  
Law on Holidays of the Republic of Macedonia (1998), Art. 4;  
Law on Identity cards (1995),  
[http://www.minelres.lv/NationalLegislation/Macedonia/Macedonia\\_ID\\_excerpts\\_English.htm](http://www.minelres.lv/NationalLegislation/Macedonia/Macedonia_ID_excerpts_English.htm)  
Framework Agreement (13.08.2001),  
Law on Personal Names (1995)  
[http://www.minelres.lv/NationalLegislation/Macedonia/Macedonia\\_Names\\_excerpts\\_English.htm](http://www.minelres.lv/NationalLegislation/Macedonia/Macedonia_Names_excerpts_English.htm)  
Law on the usage of Macedonian Language (1998)  
[http://www.minelres.lv/NationalLegislation/Macedonia/Macedonia\\_Language\\_English.htm](http://www.minelres.lv/NationalLegislation/Macedonia/Macedonia_Language_English.htm)
- <sup>55</sup> The Constitution of the Republic of Montenegro (19 October 2007), Art. 25.  
<http://www.legislationline.org/upload/legislations/01/9c/b4b8702679c8b42794267c691488.htm>
- <sup>56</sup> Idem. Art 80.
- <sup>57</sup> Idem. Art 22; 46; 53; 79 (5)-autonomy; 79 (9)-political participation; 83.
- <sup>58</sup> Idem. 14; 79 (1; 6)-Special Section on Minority Rights (Section 5; Article 79).
- <sup>59</sup> Idem. Art. 13; 79 (4; 7; 8; 11)
- <sup>60</sup> Idem. Art. 45; 79 (9;10).
- <sup>61</sup> Law on General Education (2003); Art. 11. <http://www.gom.cg.yu/files/1101305312.pdf>
- <sup>62</sup> Law on General Education (2003); Art. 9. <http://www.gom.cg.yu/files/1101305312.pdf>  
Law on Primary Education (2003); Art. 2.
- <sup>63</sup> Serbian Constitution Art 14. ‘The Republic of Serbia shall protect the rights of national minorities. The State shall guarantee special protection to national minorities for the purpose of exercising full equality and preserving their identity.’ + Art 75 (individual and collective rights guaranteed); Art 76 discrimination prohibited
- <sup>64</sup> Serbian Constitution Art 77 ‘When taking up employment in state bodies, public services, bodies of autonomous province and local self-government units, the ethnic structure of population and appropriate representation of members of national minorities shall be taken into consideration.’ Article 76: ‘Specific regulations and provisional measures which the Republic of Serbia may introduce in economic, social, cultural and political life for the purpose of achieving full equality among members of a national minority and citizens who belong to the majority,

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shall not be considered discrimination if they are aimed at eliminating extremely unfavourable living conditions which particularly affect them.’

<sup>65</sup> Serbian Constitution Art 75 ‘Persons belonging to national minorities shall take part in decision-making or decide independently on certain issues related to their culture, education, information and official use of languages and script through their collective rights in accordance with the law.’

<sup>66</sup> Serbian Constitution Art 79 + 75 (participation in decision-making on matters of minority concern – language, culture etc).

<sup>67</sup> Serbian Constitution Art 79.

<sup>68</sup> Serbian Constitution Art 10.

<sup>69</sup> 2002 Law on Protection of Rights and Freedoms of National Minorities (Serbia)

<sup>70</sup> 2002 Law on protection of Rights and Freedoms of National Minorities (Serbia), Art. 10, 11 + 9 (personal name) + 13, 14, 15 (education)

<sup>71</sup> 2002 Law on protection of Rights and Freedoms of National Minorities (Serbia), Art 5 ‘Any registration of persons belonging to a national minority obliging them to declare their national affiliation against their will shall be prohibited.’ + Art 17 (public information in minority languages) + Art 18-19 (The National Councils of National Minorities)

<sup>72</sup> Friendship, Cooperation, Good Neighbourliness and Security Agreement (1996).

<sup>73</sup> Agreement on Educational, Academic and Technical Cooperation (includes provisions for the mutual recognition of university diplomas).

<sup>74</sup> In the framework of cross-border cooperation in the areas inhabited by the Serbo – Montenegrin minority, during June 2006, bilateral agreements were signed for the cooperation in the field of the environment around Shkodra Lake and in the field of transportation for the railway network through Bajza. Connection in the Shkodra Lake has been achieved through the opening of the fourth border crossing point between the two countries, in Ura e Bunës and Vir Pazar.

<sup>75</sup> The Agreement on Special Relations between the Republic of Croatia and the Federation of Bosnia and Herzegovina (22 November 1998) <http://www.ohr.int/docu/d990512a.htm>

<sup>76</sup> Agreement on the Establishment of Special Parallel Relations Between the Republic of Serbia and Republika Srpska 26.09.2006; (replacing earlier Agreement on the Establishment of Special Parallel Relations Between the Federal Republic of Yugoslavia and Republika Srpska (5 March 2001)

<sup>77</sup> Agreement between the Republic of Croatia and the Republic of Hungary on the protection of the Croatian minority in the Republic of Hungary and of the Hungarian minority in the Republic of Croatia (5 April 1995)

<sup>78</sup> Treaty between the Republic of Croatia and the Italian Republic concerning minority rights (15.11.1996). Note also: The *Law on the Measures in favour of the Italian Minority in Slovenia and Croatia*, 21 March 2001 no. 73 (extending the validity of Article 14 § 2 of the *Provisions for the development of economic activities and international cooperation of the Region Friuli-Venezia Giulia, the province of Belluno and the neighbouring areas*, 9 January 1991, no. 19) (Italy); and: Memorandum of understanding among Croatia, Italy and Slovenia on the protection of Italian minority in Croatia and Slovenia (15 January 1992).

<sup>79</sup> Agreement between the Republic of Croatia and Serbia and Montenegro on the protection of the Croatian minority in Serbia and Montenegro and Serbian and Montenegrin minority in the Republic of Croatia (15 November 2004)

<sup>80</sup> The Agreement on Special Relations between the Republic of Croatia and the Federation of Bosnia and Herzegovina (22 November 1998) <http://www.ohr.int/docu/d990512a.htm>

<sup>81</sup> Agreement on Educational, Academic and Technical Cooperation (includes provisions for the mutual recognition of university diplomas).

<sup>82</sup> For details, see information on Serbia.

<sup>83</sup> See note 75 above.

<sup>84</sup> Agreement on the normalisation of the relations between the Federal Republic of Yugoslavia and the Republic of Croatia, (23 August 1996).

<sup>85</sup> Agreement on the Establishment of Special Parallel Relations Between the Republic of Serbia and Republika Srpska (26 September 2006).

<sup>86</sup> There is no explicit commitment to minority protection in the agreements with Croatia and Romania.

<sup>87</sup> Additionally, there is a trilateral agreement on the border between Serbia-Montenegro, Hungary and Romania (2006).