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Support to civil society dialogue
“People to people actions”

“ Effective participation of Ethnic Communities Vulnerable to Racial Discrimination in Public Life of Western Balkans”



UNION OF BALKAN'S EGYPTIANS
СОЈУЗ НА БАЛКАНСКИТЕ ЕГИПКАНИ
UNIONI BALLKANO - EGJIPTIJAN
SAVEZ BALKANSKIH EGIPĆANA

**“Effective participation of Ethnic Communities Vulnerable to
Racial Discrimination in Public Life of Western Balkans“**

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PREFACE

This publication is a result of an experts' research within the project "Effective Participation of Ethnic Communities Vulnerable to racial discrimination in the Public Life of the Western Balkans", implemented by the Union of Balkan Egyptians and financed by the EU. This project was realized with the unselfish support and engagement of our partners from the NGO sector: the Albanian Human Rights Group form Tirana, Albania; NGO Alexmar from Podgorica, Montenegro; Youth Network from Peja/Pec, Kosovo; The Minority Studies Society "Studii Romani" from Sofia, Bulgaria; and the Union of Balkan Egyptians in Western Europe, from Mulheim and der Ruhr, Germany.

The democratization process as a whole, the re-establishment of the rule of law and democratic institutions and practices, as well as the reconciliation and integration of minorities, are still very much under way in the countries of the Western Balkans, thus requiring continued efforts in confidence-building and promoting dialogue between different actors and interlocutors within the communities in this region. The outbreak of inter-ethnic violence and hostility in former Yugoslavia made it clear that the protection of national minorities is not only a crucial element of human rights, but it is also essential for stability, security and peace in Europe.

Recognition of the civil and political rights of Ethnic Communities Vulnerable to Racial Discrimination (ECVRD) has improved over time. However, ECVRD are still vastly underrepresented in public offices throughout the Western Balkans, despite the fact that they constitute a significant number of minorities in the countries of this region. The reasons for this underrepresentation are various: the historic-sociological realities connected to the peculiar situation of ECVRD people(s) in the region; further alienation (estrangement) of large segments of ECVRD population generated by the recent inter-ethnic conflicts and wars, by the re-drawing of the State boundaries in the 90s; insufficient political will of newly formed political parties in the countries of the Western Balkans to include candidates of ECVRD ethnic background on their lists; structural obstacles created by recently adopted electoral laws and institutional arrangements which have

little if any awareness of the needs and rights of minorities, in particular of ECVRD, as how to achieve adequate representation on elected bodies, local and national (e.g. constraints generated by the fact of ECVRD being people in the Diaspora, living in territorially dispersed (scattered) communities and electoral constituencies (districts); lack of a pro-active approach by public administrators in charge of the elections to disseminate information among the ECVRD population regarding the voters registration, voting techniques etc; lack of information/training tools, which may take the realities of ECVRD populations into account (e.g. lower level of literacy/schooling than the majority population or the historically established national minorities); no tradition of using ECVRD languages (or major dialects) as languages of electoral training/campaigning etc.

Generally, it is very difficult to work under these circumstances. Furthermore, it is much more complicated to make a publication in order to exchange experiences and information on regional (meaning the Western Balkans) and international level, taking into consideration the intricacy of the case in the Balkans! But, with the help of two experts, Professor Melina Grizo, PhD, and Mister Ilija Milcheski, MA, we have successfully finished the publication. They were entirely devoted to the project and put their knowledge, time and experience in it. They also managed to come upon the proper methodology on finding common electoral behavior of/toward ECVRD on a regional level and among various communities and legislatures in the Western Balkans. Therefore I thank them both!

Except for legal and research analyzes on regional level, we also have some national expert papers, which are exceptional and very interesting for the public. Hence, we decided to publish some of them as case studies in Macedonia, Serbia and Montenegro.

Finally, I would like to express my gratitude to the Institute for Socio-Cultural Anthropology from Skopje, Macedonia, that not only helped us with the research, but it also built and shared epistemology and methodology and engaged its experts. All of this was a priceless contribution to our achievement of results and outcomes for this part of the project.

Introduction by Rubin Zemon*

The multicultural or multi-ethnic character of the population in any particular state must be reflected in its institutions, policies and practices. Full and effective participation in the political, cultural, economic and social life can be considered as a “third generation” minority rights. Although effective participation has only recently become the focus of debate, it is firmly rooted in the standards in the international human rights law. In addition to being a general human right, effective participation is also a right of the minorities as stipulated in the relevant international legal instruments¹.

There is no generally accepted legal definition of ethnic minorities². International political and legal documents, constitutions and (internal) legislation of different (nation-) states have traditionally avoided this issue for numerous reasons. On the other hand, social scientists and (legal) theoreticians have developed several definitions of ethnic and/or national minorities. These definitions, which were developed for the purpose of their research, usually focused on different aspects of these ethnic communities. According to Mitja Zhagar, the most frequently cited is the definition of Francesco Capotorti, who describes an (ethnic) minority as a group which is numerically inferior to the rest of the population of the state; in a non-dominant position; whose members - being nationals of the state-posses ethnic, religious or linguistic characteristics and differing from those of the rest of the population - show, if only implicitly, a sense of solidarity, directed towards preserving their culture, tradition, religion or language³. Mitja Zhagar, has made additional descriptions that concentrate more on the subjectivity of the people, such as: **Developing a distinct (ethnic) identity**

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1 Petruskova Tatjana, (ed). A guide to minorities and political participation in South-East Europe, King Baudouin Fondation, 2009, 18.

2 Minority Rights Advocacy in the European Union: A guide for NGOs in South- East Europe, Minority Rights Group International, 2006, 12.

3 Mitja Zhagar, Some newer trends in the protection and (special) rights of ethnic minorities: European Context, in Minorities for Minorities, Center for Peace Studies, Zagreb , 2010, 169, 170.

and having the motivation to preserve together their common identity, religion, culture, tradition and/or language.

States are usually very reluctant when having to officially recognize the existence of ethnic pluralism and minorities within their borders⁴. In every country, the decision to grant formal (national minority) status, legal protection and special rights to a certain distinct ethnic community and/or its members (persons belonging to this community) is always - and above all - a complex political decision. This is also conditioned by the perception of the concept of modern nation-states.

Nation-states are products of a very specific historical development in Europe that was enabled by the introduction and rapid development of capitalism and capitalist way of production. European nation-states have developed simultaneously with the formation of modern (ethno)nations from the sixteenth and seventeenth century on.

In this process the states have acquired an ethnic dimension and identity. Dominant ethnic communities within certain territories usually determined ethnic identity of nation-states. States are understood as specific or even the only means and mechanism that can assure the realization of specific (national) interests of (ethno)nations. European states were established and are still perceived as nation-states of certain nations- we could say “single-nation- states”. This concept could be explained by a simple equation: State=nation=people⁵.

National (ethnic) minorities, as we know them today, are a consequence of the formation, development and existence of modern nation-states and borders among them. From a historical perspective, the development of the (constitutional, legal, international) protection of national minorities was a long, slow and often painful historical process. When we analyze the historical development of the protection of national (ethnic) minorities we could divide it into three main phases: 1. from the Peace Treaties of Westphalia (1648) to World War I (WW I); 2. from WW I to WW II and 3. after WW II with special sub-phase since 1989⁶.

The concept of (special) rights of ethnic minorities has often been disputed. Some authors and politicians deny the very existence of special minority rights. According to them, special rights are only a form of an unacceptable legal discrimination. They insist on absolute formal equality between all people before the law and consider the so called “positive discrimination”,

4 Will Kymlicka, Etnički odnosi i zapadna politička teorija, Habitus, 1999, 4. Mitja Zhagar, Some newer trends in the protection and (special) rights of ethnic minorities

5 Mitja Zhagar, Some newer trends in the protection and (special) rights of ethnic minorities: European Context, in Minorities for Minorities, Center for Peace Studies, Zagreb , 2010, 172.

6 Ibid 174

with measures of the “affirmative action”, to be an unacceptable violation of the principle of equality before the law. They also usually reject the existence of collective rights and claim that all rights are exclusively individual.

On the other hand, the international law, the official documents of most states, most politicians and scholars recognize the existence and importance of the special rights of (national) minorities. These rights have a dual nature - they are at the same time collective and individual rights. If we analyze the rights of a national minority in their complexity, we can discover that as collective rights they belong to the ethnic minorities as distinct communities, and as individual rights they belong to every member of a certain ethnic minority.

According to some scholars who refer to the classification of human rights, the rights of minorities could usually be defined as “rights of negative status”. This means that the states react only when the rights are violated – usually upon the request of members of the minority. Individuals or minority organizations can sue violators before the courts and request the states to prevent further violations of the minority rights. The alternative concept that has been developed mainly as a theoretical model, could be the “positive concept of the protection of ethnic minorities”, which was developed in the early 1990s. This model determines the minority communities and their members as active and equal subjects in a plural society and its political system. It provides them participation and decisive role in the political decision-making. It also requires an active role of the state in the protection and realization of special rights of the minorities⁷.

The participation of minorities in the public life is essential in ensuring that their particular concerns would be taken into account and in enabling them to influence the general direction of development of the society as a whole, while participation in the social and economic life enables them to fulfill their needs throughout their own active contribution. Effective participation is needed for the allocation of opportunity as well as of benefits⁸.

If persons who belong to a national minority are subjected to systematic discrimination, they manifestly cannot fully participate in any particular society. Effective participation of minorities in various areas of the public life is essential for the development of a truly democratic, cohesive, inclusive and just society. Effective participation of minorities in the decision-making processes, particularly in decisions which bear a special impact on them, is a fundamental precondition for the full and equal enjoyment of human rights of these people. Measures taken to ensure the effective participation

⁷ Ibid 180-181

⁸ Petrussevska Tatjana, (ed). A guide to minorities and political participation in South-East Europe, King Baudouin Fondation, 2009, 18.

of minorities also contribute to the alleviation of tensions and thus serve the purpose of conflict prevention. Consequently, in addition to being a legal obligation, the creation of conditions for the effective participation of minorities should be considered as an integral part of the principles of good governance by the states⁹.

Participation of minorities has taken many distinct forms, from ad-hoc modalities to political dialogue through more or less institutionalized modes of dialogue to various forms of government participation. The primary interest of minorities is to enter into or maintain dialogue with the government and state institutions of their country and with the majority of the population. The premises for conducting political dialogue depend on a series of factors, such as the historical background, institutional background, critical mass, functioning elite, assets and dialogue situation. The combination of the positive elements of these factors should bring a particular society few steps closer to the process of “democratization”. Still, a particular democracy is only as good as the people who have the opportunity to express their will and make use of it. When dealing with political and institutional dialogue on a national level, we should bear in mind that real communication between citizens and state institutions takes place on a local level. Thus, participative democracy can only be reached on this level. Although the legislation and its implementation on a national and sub-national level are well under way in most countries in the region, the local level needs much more attention than it has received so far¹⁰.

In its conditions for the accession of new member states, the EU requires both democratic governance and respect of minority rights. The political representation of minorities, especially in the government, does not form a part of explicit membership requirements. The regular EU progress reports, for example, have not systematically commented on the inclusion of minority parties in the government. Nevertheless, the EU influence has been crucial in the formation of minority-inclusive governments. In the absence of a coherent EU minority rights policy, consensual politics between majority and minorities have become a key measure of minority rights protection¹¹.

The political participation and participation in the public life of minorities, has become the litmus test for the degree of Europeanization in the countries that want to be integrated in EU. While no formal requirement by any international organization or by international human or minority rights standards has been made, the inclusion of minority parties in government is often seen as a measure of successful implementation of minority rights and toleration of the majority towards the minority.

9 Ibid, 19.

10 A guide to minorities and political participation in South-East Europe, King Baudouin Fondation, 2009, 41
11 Ibid, 59

* * *

There are no universally accepted definitions of racism, xenophobia, racial discrimination, or intolerance. For instance, “racism” has not been defined in any inter-state instrument adopted so far. However, some international documents include definitions of “discrimination”, including “racial discrimination”. The definitions used by the various institutions and bodies are examined under the relevant sections of the study¹².

According to the European Commission against Racism and Intolerance (ECRI) by the Council of Europe, “**Racism’ shall mean the belief that a ground such as ‘race’, color, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons, or the notion of superiority of a person or a group of persons.**” Regarding the use of the word “race” ECRI notes that: “all human beings belong to the same species and ECRI thereby rejects theories based on the existence of different ‘races’. In this recommendation¹³ ECRI uses this term in order to ensure that those persons who are generally and erroneously perceived as people who belong to ‘another race’ are not excluded from the protection provided by the legislation”.

In practice, in studies of certain scholars, as well as in some laws, difference between direct and indirect racial discrimination is made. In that context **‘Direct racial discrimination’** shall mean any differential treatment based on a ground such as race, color, language, religion, nationality or national or ethnic origin, which has no objective and reasonable justification. Differential treatment has no objective and reasonable justification if it does not pursue a legitimate aim or if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be realized. **‘Indirect racial discrimination’** shall mean cases where an apparently neutral factor such as a provision, criterion or practice cannot be as easily complied with by, or disadvantages, persons belonging to a group designated by a ground such as race, color, language, religion, nationality or national or ethnic origin, unless this factor has an objective and reasonable justification. This latter would be the case if it pursues a legitimate aim and if there is a reasonable relationship of proportionality between the means employed and the aim sought to be realized¹⁴.

12 International Action against Racism, Xenophobia, Anti-Semitism and Intolerance in the OSCE region, a Comparative Study, OSCE/ODIHR, September 2004, 9

13 ECRI’s General Policy Recommendation No.7, of December 2002

International Action against Racism, Xenophobia,

14 International Action against Racism, Xenophobia, Anti-Semitism and Intolerance in the OSCE region, a Comparative Study, OSCE/ODIHR, September 2004, 11

There are several communities in the Western Balkan states that may be considered as Ethnic Communities Vulnerable to Racial Discrimination, such as the Balkan Egyptians, Ashkalies, Roma, Beiashi, Kovachi, Mileta, Rudara etc. All of these stereotypically and with a lot of racial prejudices have been and still are considered by the majority of population, as was as by the main stakeholders in the public life of the Western Balkans and in the EU Member states as “Roma”, “Roma group”, “Roma like group” etc. Bearing in mind that the respecting of identity of individuals is the priority in modern societies, as well as one of the fundaments for the development of multicultural society and multiculturalism, we consider all of these communities as ethnical ones. Ethnic diversity among all of these groups is evident, and prejudices and stereotypes of the majority of the population toward these groups have to be overcome and not in any way affirmed. Some states or international organizations who aim to respect the identity of the people and “satisfy” their prejudices imaged acronyms such is “ECVRD” (for Roma, Ashkalie and Egyptians). This was unacceptable for none of the mentioned communities. Reactions from representatives of Roma, Egyptians and Ashkalie communities, scholars, experts and other stakeholders occurred very often and they were justified, since they believed the use of such acronym “is a new form of discrimination”.

Stereotyping is very often viewed as a natural information-processing strategy and there are several explanations about why it is so common and universal, none of which relate to prejudice. One explanation is named as **out-group homogeneity effect**. Out-group homogeneity effect is the tendency for people to see members of an out-group as less diverse and more stereotypic than the members of that group perceive themselves. We have a tendency to see out-group members as highly similar (i.e. homogeneous), yet, view ourselves and our in-group members as unique and individual¹⁵. The second plausible explanation for stereotyping is called the **illusory correlation principle**. Negative behaviors are numerically rare, but they become disproportionately memorable, later leading to impressions that the micro cultural group members are responsible for more than their share of undesirable behavior. Neither the out-group homogeneity effect, nor the illusory correlation principle is necessarily wrong or socially “bad”. Both are naturally occurring information-processing strategies that are part of everyone’s normal cognitive repertoire. The problem is that they lead to negative attitudes and subsequent prejudice¹⁶.

15 James W. Neuliep, Intercultural Communication, Sage Publications Inc., Los Angeles, 2009, 168

16 Ibid, 169.

Also, part of the European and especially the Balkan population, has prejudice against the ECVRD. The motivation of this prejudice has changed in the course of history, and has been intermingled with a racist ideology from the second half of the 18th century¹⁷. The ambivalence of the Gypsy stereotype permits a certain variation of the romantic element from cynicism to complete identification. But even the most romantic form of identification, in the field of gravity of an overall Gypsy stereotype, can only present itself as racism¹⁸.

There are some organizations and working groups in the international community such as: "Contact Point for Roma and Sinti Issues" by OSCE/ODIHR¹⁹ or "Roma and Traveler Division" by Council of Europe²⁰, where some of the communities are partially treated.

On the other hand, because of the fact that these communities share some similarities such as ethnic particularities and diversity, than they are victims of racial discrimination and social exclusion, they are perceived as one community or ethnic group. In order to fight racial discrimination and social exclusion, common strategies, projects and action plans have to be made and implemented. For that reason we have started using the term "Ethnic Communities Vulnerable to Racial Discrimination" (ECVRD).

Also, Marcel Courtiade²¹ from the University of INALCO in Paris, came up with the idea of using the term "Communities without compact territories" for the nine communities that live on the territory of Europe²².

In the following section we will try to describe some of the ethnic communities vulnerable to racial discrimination (ECVRD) in the Western Balkans.

The newest scientific research shows that the Balkan Egyptians have roots from Ancient Egypt, and they came in the Balkans during the time of pharaoh Ramsess the Second. This knowledge is based on historical sources from the ancient time, especially

from the scripts of Herodotus in 5th century BC. History gives us a lot of data to trace the arrival of these people from Egypt to the Balkans. In his book "History", more precisely in the second chapter called "Euterpa", Herodotus describes the concourses of pharaoh Sesostrid (Ramsess the Second) and the migrations of the Egyptians in the Balkans made during that

17 Peter Thelen in: Roma in Europe- from social exclusion to active participation, FES, Skopje, 2005, 21.

18 Ibid, 27

19 <http://www.osce.org/odihr/44247>

20 http://www.coe.int/t/dg3/romatravellers/default_en.asp

21 Marcel Courtiade, Les Roms dans le contexte des peuples europeens sans territoire compact, Inalco, Paris 2011

22 Formulation is used analogically from the Conventions for protection of minorities and regional languages, by the Council of Europe 'languages without compact territory'. Among them are: Vlachs (Aromanians), Jews, Armenians, Balkan Egyptians/Ashkalies, Roms, Yenishes, Travelers, Beiaši (Rudara) and Samies.

time. In his book we also find that the tribe of the Dorians (antic Hellenic tribes from Peloponnese) had an Egyptian origin. Using the description in the ancient Hellenic legend for Cadmus and Harmony, we can make a lot of connections between the Balkans and Egypt, and we can make a reconstruction of the migration waves of Egyptians in the Balkans, especially for those who in the present territory of Albania.

There is also a great number of historical evidence that witness about the presence of Egyptians during the period of the Macedonian Empire, the Roman Empire, the Byzantine Empire and the Ottoman Empire.

Archeology gives us evidence about the existence of people with Egyptian origin in the Balkans as well. There are many preserved temples of Isis and other Egyptian gods throughout the Balkans, but the most notable ones are the temples of Isis in Lihnidos (Ohrid) and Heraclea (Bitola), as well as others on the Albanian territory in Apolonia and other regions. Moreover, the scarab (a holly insect in the Egyptian mythology) can be found on ornaments in the Balkans.

The process of public presentation of the Egyptian identity came to the surface in the 1970s with the first attempts to have a separate entry for “Egipkjani” (Egyptians) in the censuses in former Yugoslavia, and in the Republic of Macedonia in particular. The Egyptian movement received a new impetus after the new constitution of the SFR Yugoslavia was passed in 1974 (Art. 166, 170). It established the right of every citizen to declare their own ethnic identity. Some Egyptians recall that in the 1981 census some declared themselves as “Gjupci”, but they were reclassified as “Romas”, while others declared themselves as “Egipkjani” (Egyptians) for the first time in Macedonia, but they were also not recorded in the census results and were classified as “unknown”. It became clear that without having a special census entry (Egyptians), their existence would not be of public knowledge. In order to achieve this special Egyptian entry people began circulating petitions not only in Macedonia but in Kosovo as well (nearly 4000 people signed a petition in Kosovo). These petitions were deposited at various levels of the government.

The long struggle ended with success in the census of 1991, when Egyptian activists managed to persuade the Yugoslav authorities to introduce an entry for Egyptian as a nationality category in the census, thus actually recognizing their existence. Around 13,000 citizens' signatures were collected in Kosovo. According to the unofficial results of the 1991 census (the outbreak of the war prevented that census from ever being finalized, and the census was contested by Albanians in Kosovo and some parts of Macedonia) in 1991 in Macedonia, 3,307 people or 0.2 % declared themselves

as Egyptians. According to Egyptians, this number was too low and did not reflect the actual situation. They wrote petitions again and protested. In the 1994 census the number was 3,169 (citizens of Macedonia residing outside the Republic for more than one year were not counted.)

The struggle to establish the Egyptians as a separate community was led by their new associations, first in Macedonia and later elsewhere in the Balkans. In 1990 the “Egipkjani” association in Yugoslavia was founded with Nazim Arifi as its chairman and with its headquarters in Ohrid, Macedonia. “The Association of Egyptians for Kosovo and Metohija” was founded on October 21st 1990 with Vesel Kadroli as chairman. At the same time an Egyptian club was founded in Belgrade and later on grew into the Union of Egyptians “Esnaf” (‘Guild’), which was centered in Belgrade. In 1991, in Struga, Macedonia, an Egyptian political party, was founded - the Democratic Movement Party .

After the beginning of the dissolution of Yugoslavia in 1991, based on the existing organizations of the Egyptians in Yugoslavia, independent associations were founded in Macedonia, Serbia and Kosovo.

At the same time the idea of a separate Egyptian community was extended beyond the borders of former Yugoslavia and similar associations were also founded on the territory of Albania by the “Evgjit”. The first one was founded in Korcha on June 28, 1992. It was followed by regional associations such as the cultural and educational association “Orient” in Vlora, a Students’ Egyptian Association in Albania, which was later united in a Cultural association of the Egyptians in Albania “Nefreti” (i.e. Nefertiti), registered on March 22, 1993, with Behar Sadiku as chairman. In 1992 a committee of the Albanian Egyptians was founded, which later on became the “Party for Equality, Dignity and Rights”.

In 1998 the different Egyptian associations were formally united and, in a congress in Ohrid, the formation of the Union of Balkan Egyptians was announced. The congress was attended by representatives of all existing organizations of the Egyptians from Macedonia, Albania and Serbia (Belgrade). The congress was not attended by representatives from Kosovo who at the last minute announced that they would not be able to arrive due to the uncertain political situation. Rubin Zemon from Macedonia was elected chairman of the Union of Balkan Egyptians and Behar Sadiku from Albania became vice-chairman.

Parallel with this phenomenon there were attempts by the Egyptians to develop their own media. In 1995 the association of the Yugoslavian Egyptians for Kosovo began publishing the magazine “Voice of the Yugoslav Egyptians” and in 1998 the association of the Egyptians in Macedonia began publishing the magazine “Voice of the Egyptians in Macedonia”.

In 1993, the Association of Egyptians conducted its own census in Kosovo and Metohija. According to this census there were approximately 120,000 Egyptians in Kosovo. The representative of the Egyptians at the Rambouillet and Paris negotiations was Qerim Abazi.

The Balkan Egyptian émigrés in Western Europe are united in the Union of Balkan Egyptians of West Europe with its seat at Mulheim-an-der-Ruhr, Germany, with chair Robertina Ashouri. Many organizations of Egyptians from Kosovo exist in Germany, Switzerland, Holland, and Sweden. (photo 12)

After the Kosovo war in 1999 and the establishment of an international administration in Kosovo, some new NGOs of Egyptians were formed in Kosovo, but the most important factor of Egyptians in Kosovo is a political party called the New Democratic Initiative of Kosovo (IRDK). Bislim Hoti was the First president to be elected and he also became the first member of a parliament from the Balkan Egyptian community. From 2007 Xhevdet Neziraj was elected president of IRDK, who also became MP of the Egyptians in the Kosovo Parliament as well.

With the adoption of the Law for Protection of National Minorities in Serbia, in May 2006, the National Council of Egyptian National Minority was registered and Osman Seladin was elected chairman. This Council is under the supervision of the Ministry for Human and Minorities Rights of Serbia and is financed by the State.

After the Kosovo crisis, the International Community devoted greater attention to the Balkan Egyptian community in different Balkan states. The Council of Europe Commissions and committees, Advisory Committee of Framework Convection for Protection of National Minorities, European Commission against Racism and Intolerance etc. identified issues of concern and proposed recommendations for solving of problems almost in all reports for the Balkan states where Balkan Egyptians population live. Such reports identified issues and made recommendations to the state of Albania in 2005 and 2008.

The most specific issue of Balkan Egyptians is in Albania, concerning the discrimination related to the Egyptian identity: the European Commission against Racism and Intolerance (ECRI) devoted a special chapter to this issue in its report from 14 June 2005:

“...ECRI notes that de facto Egyptians seem to be perceived as a distinct minority in Albanian society, by the public, the media as well as some Albanian officials, who perceive Egyptians as distinct and commonly refer to them with specific group designation. In this connection ECRI is concerned that the specific terms by which Egyptians are desig-

nated in Albanian society often contain pejorative connotation, and may to refer simply to their dark skin color.

ECRI is deeply concerned that this situation has resulted in the discrimination of the Egyptians as compared to other minorities in Albania with respect to their ability to bring their specific problems and concerns to the attention of the authorities. The Egyptians therefore face a position of particular marginalisation in public life as well as a general neglect of their specific problems and needs by the Albanian authorities. The Egyptians seem to be overlooked in the development of policies in different fields of life. This meant that no steps have been taken to determine whether Egyptian communities face direct or indirect discrimination in different fields of life or suffer from racism in society... Furthermore, Egyptians tend to be excluded from state structures specifically established in order to address the needs of the countries' minority. For instance, the Special State Committee on Minorities responsible for making recommendations to the Government on minority issues does not include representatives of Egyptian minority...

ECRI urges the Albanian authorities to ensure that the principle of non-discrimination is fully respected as concerns Egyptians in Albania.

ECRI recommends to the Albanian authorities to ensure that there is no discrimination against Egyptians with respect to their participation and access to official State institution dealing with the needs and concerns of the countries' minorities. In particular, ECRI recommends that the Egyptians be represented on the Special State Committee on Minorities, and be taken into account by the Office of National Minorities.

ECRI recommends that the Albanian authorities devote specific attention to the problems faced by the Egyptian communities, and develop in co-operation with these communities measures targeted to their particular needs, including measures to address any indirect discrimination or racism that they experience. The Albanian authorities may wish to consider the adoption of a specific National Strategy aimed at improving the situation of Egyptians in Albania... ”

The comment of the Government of R. Albania concerning the Egyptian issue was:

“ ...Relating to the status issues of Egyptian community, in the determining as national minority of a certain group, expect the subjective criterion which undermines the personal choice to be part of this community, exist even some objective criteria provided in international acts such as: a) existence in this group of ethnic, cultural, religious, linguistic characteristic, b) the obvious will to keep the culture, tradition, religion or their language... ”

...Historically “gypsies” have arrived in the Balkans (including Albania) from India through Egypt and this fact is the sole element, which relates them to this country...They do not have their own language and can speak only the Albanian language. They have been integrated completely in the Albanian population and their only difference from the other Albanians is the color of their skin...

...The allegation of a group of people that is so called “Egyptians” and requires to be considered as minority group exists only in Albania...

...For this issue we mention again the fact which is expressed even before the Embassy of the Arab Republic of Egypt in Tirana declared that it does not acknowledge any Egyptian minority in Albania and this community which lives in Albania has no ethnic relation to the Egyptian people.

...Based on all the international acts regarding to the national minorities and considering objective and subjective criteria determined in them for the status of the national minorities, criteria accepted even from the Council of Europe, we consider that there do not exist fundamental elements which can obligate the Albanian state to acknowledge to Egyptian community the status of national minority.”

On this occasion we will comment that the Governmental position and their explanations about the “Egyptian issue” in Albania, are not stable and on false basics because of the following:

1. The existence of objective ethnic, cultural, religious, linguistic characteristic of the Egyptians in the Balkans, and especially in Albania, are mentioned in a large number of scientific book, even in the Albanian science, from famous Albanian scientists such as: Faik Konica, Sami Fresheri, Zija Shkodra etc., as well as by the Albanian Academy of Science by its Institute for Language and Letters. Moreover, the research of the objective parameters of one ethnic group is not in the domain of the Government or ministries, but it is the work of the Scientific Institutes for ethnology or anthropology. Unfortunately such scientific institutes do not exist in Albania.

2. It is not true that the “Gypsies” have arrived in the Balkans (including Albania) from India through Egypt. There is no scientific proof or argument about this thesis. When the Roma arrived in Egypt in the 12-13 century, they continued their way through North Africa to Spain, and they didn't come to the Balkans. The Roma came to the Balkan region through Anatolia (present-day Turkey), and this route had no relation with Egypt. The relation between the Balkans and Egypt are mostly from ancient times until the collapsing of the Ottoman Empire.

3. It is false that only in Albania people declare themselves as Egyptians. Opposite to that, the process of identification of this group as “Egyptians”

started in former Yugoslavia in 1980s. Nowadays organizations of Egyptians are registered in Serbia, Kosovo and Macedonia, and as well as in the west-European countries by the emigrants from the Balkans. In the former and in the present parliament of Kosovo there are 2 MPs that declare themselves “Egyptians”, and are elected by the IRDK political party which is declared as an Egyptian party.

4. During my visit of the Embassy of AR Egypt in Tirana, I had a conversation with H.E. Dr. Refaat Ansary, the Ambassador. He informed me that the Embassy was never asked by the Albanian authorities about the “Egyptians issue” in Albania, and they have never given any official declaration as it is mentioned in the comment of the Government of Albania. This position was repeated on more occasions by the official Egyptian authorities, even at a round table that Union of Balkan Egyptians organized as Side Event of OSCE Review Conference in Warsaw on 6th October 2010, where Mr. Tamer Hamad was presented as a member of AR Egyptian delegation on the Conference.

Ashkalie

The Ashkali are comparatively the “newest” minority, having entered the international stage only after the Kosovo crisis. The existence of an Ashkali identity had already been well known to a small circle of scholars that were engaged in Gypsy/Roma studies. These scholars have usually identified them as Albanian-speaking Gypsies/Roma, before the Kosovo crisis. The Ashkali themselves, according to local conditions, because of the same language and similar culture, gravitated to the Albanians. Before the Kosovo crisis, the Ashkali in Kosovo had never been counted or estimated, they have never been included in censuses because they have declared themselves as Albanians. This kind of declaration of socially excluded Ashkalies was in favor to the Albanian national policy in Kosovo as well, with the aim of collecting as much arguments as possible for the discrimination of Albanians in Kosovo before 1999. But after the Kosovo crisis there was no need for such arguments anymore, so diversity among Albanians and Ashkalies in Kosovo was affirmed.

Indeed, on the field, there are no cultural or other differences, ethnic distance or boundaries between Balkan Egyptians in Kosovo and Ashkalies. The only difference is the different self-identification of people. People inside the Ashkalie communities in Kosovo declare that they are the same people as Egyptians, but they do not accept identification as Egyptians. On the other hand, Egyptians say that the Ashkali is just one of the folk appellations (ethno-name) for Egyptians. However, the majority of the population in Kosovo, in most cases considers the Ashkali (as well as the Egyptians) to be Albanian-speaking Roma, who do not want to acknowledge their origins and are looking for new identities. Ashkalie and Egyptians denied any relation to Roma (Gypsies), in fact they live completely separate lives.

In contrary to the affirmation of Ashkalie identity after the Kosovo crisis, the Egyptian identity was perceived as “identity affirmed by Serbian regime for Albanian-speaking Gypsies”, by the Albanians in Kosovo and by International Community as well as by some “Western” scholars, with the aim to decrease the number of Albanians in Kosovo”? In addition to this

quasi paradigm was a fact that representatives from Egyptian community participated in negotiations in Rambouillet, as part of the Serbian Government delegation in 1999. For this reason some members of Ashkali/Egyptian community in Kosovo were more comfortable and even felt safer to declare as their preferred identity “Ashkali”.

The presence of international forces and organizations in Kosovo and their attempt to ensure the representation of all minorities in the Kosovo Parliament and other decision-making bodies, accelerate the process of the manifestation of the distinct non-Romani, non-Egyptian, and non-Albanian identity of the Ashkali. The Ashkali insisted on receiving a place in the governing bodies.

Over a relatively short period of time the Ashkali succeeded in establishing their own organizations, such as a political party Democratic Party of Albanian Ashkali in Kosovo with Sabit Rahmani as President (founded in December 1999) and a non-governmental organization “Democratic Hope”, headed by Agim Hyseni. There are also Ashkali NGOs in Fushë Kosovë/Kosovo Polje and Ferizaj/Urosevac. On the parliamentary elections in Kosovo 2008, Ahkalies won 3 MPs: Ms. Hafize Hajdini , Mr. Danush Ademi and Mr Etem Arifi .

A great number of Ashkali people from Kosovo live in Serbia and Vojvodina, in the periphery of Belgrade and Novi Sad. Indeed, the most active NGO of Ashkali community is in Novi Sad, “Matica Ashkalia” (Head office of Ashkali) lead by Abedin Toplica.

Roma

The Roma community is the biggest community among the ECVRD in the Western Balkan. We may even find a Hugh Bibliography related to their history, ethno-genesis, migrations, human rights, participation in public life etc., there is much uncertainness for those issues²³.

In order to better understand the historical destiny, ethno-social structure and ethno-cultural characteristics of Roma in the Western Balkans and Europe, we should take the following important positions into consideration:

1. There is a different understanding of the Roma community (communities) in different contexts, cultures, nations etc. The “out-group” people, especially in Western Europe, are much more based on a social-economic category and identity, without having the meaning of ethnic origin or ethnic identity. When they think of Roma (Gypsies), they create a picture of people who lead wondering/nomadic life on caravans, or live in ghettos (Roma Mahalas) and that they are socially excluded, dark-skinned, begging people, doing magic etc. Among the “in- group” people, the image of Roma community is people with origin from India who came in Europe during the Middle Ages, who speak/understand the Roma language etc. Therefore there is a big misunderstanding on different discussion and discourses, among the different stakeholders on imaging or targeting the Roma community.

2. Roma, as all other communities and nations, may be thought of as “imaged community” (in a spirit of Benedict Anderson), but unlike the other communities and nations, the “imagination” does not come from their own members, but from the other population! For that reason, maybe as a paradox, the boundaries of this community are not determined by the members of the community, but from the other population. Independently from the kind of opinion that the Roma have for themselves and what kind of identity they prefer, they will be considered as “Roma”, “Gypsies”, “Tzigan” etc²⁴.

23 Council of Europe, under the project “Education of Roma Children in Europe”, in year 2010 published a very compressive Fact sheets on Roma History, which is available on: www.coe.int/education/roma

24 Elena Marushiakova and Veselin Popov, Studii Romani, vol VII, Sofia, 2007, 12.

3. Roma people all over the world exist through so-called “two coordination systems”- as a particular community and as a society (more exactly as particular integral part of a particular nation). From this point of view on the concrete research about Roma, we should bear in mind that:

a. Roma are a specific kind of community, which does not have an analogy with the other communities in Europe, the so called “inter-group ethnical formation”. This community is divided in many particular, more or less limited sub-divisions in a different order, with affirmation of their own specific ethno-cultural characteristics. For that reason, we may speak about “Roma” as a whole only with a certain dose of conditionality, when we take into consideration for which kind of “Roma” we are talking about.

b. For the contemporary situation of the Roma, with particular importunity is the historical and socio-cultural context in which they lived in the past, as well as the contemporary social, economic and political situation. For those reasons, any analysis made to estimate the contemporary situation of Roma, should be limited according to the specifics of the area or region, in which they live or have until recently lived.

Linguistic and genetic evidence indicates that the Roma originated from the Indian subcontinent emigrating from India towards the Northwest, no earlier than the 11th century. It is likely that the emigration from India took place in the context of the raids by Mahmud of Ghazni²⁵. As these soldiers were getting defeated, they were moved west with their families into the Byzantine Empire. The 11th century *terminus post quem* is due to the Romani language showing unambiguous features of the Modern Indo-Aryan languages²⁶, precluding an emigration during the Middle Indic period. Genetic evidence supports the mediaeval migration from India. The Romanies have been described as “a conglomerate of genetically isolated founder populations”, while a number of common Mendelian disorders among Romanies from all over Europe indicates “a common origin and founder effect”²⁷.

According to the interpretation of the historical sources from XIII and XIV century by modern science, we can find many examples of confusion and unclear determination and distinction. This phenomenon is caused by the identification of Roma people with origin from north-west India as “Egyptians”. Bearing in mind that Roma people were excluded from the Balkan and European societies even in that period, some of them preferred

25 Ian F. Hancock, Siobhan Dowd, Rajko Djurić (2004). The Roads of the Roma: a PEN anthology of Gypsy Writers. Hatfield, United Kingdom: University of Hertfordshire Press. pp. 14–15.

26 Encyclopedia of Language and Linguistics. Oxford: Elsevier. Retrieved 2009-08-30.

27 Luba Kalaydjieva; Gresham, David; Calafell, Francesc (2001). “Genetic studies of the Roma (Gypsies): A review”

to declare themselves as “Egyptians” in order to achieve greater prestige in the society, hiding their Indian origin. Because of this so-called ethnic mimicry, the approach to the historical sources from this period has to be very sensitive and conclusions have to be made very carefully, especially on determination and distinction of Roma and Balkan Egyptians communities, when “Egyptians” are mentioned in historical sources.

In the documents of Constantinople Patriarch Grigorius II Ciprious (1283-1289), special taxes are mentioned, that were collected by “so-called Egyptians and Tzigans”, as well as experienced practices of collecting of those taxes.

In a Practicum of Monastery Ksiropotama in Athos, 1325-1330, it is noted that Ana, the daughter of Limocervul, had an “Egyptian” husband. Also, on the land of the Monastery of Lavra lived “Nicolas the Egyptian”.

In documents from November 5th 1362 from the archive of Dubrovnik, Vlaho and Vitan are mentioned as “Egyptians” who were asked by the principal office a goldsmith Raden Bratoslavic to give back deposed 8 big silver belts.

In the “Bulgarian” version of the Biography of St. Barbarous from XIV century, who lived in IX century, a great number of “Egyptians”, who lived on the sea coast around Durres, are mentioned.

The biggest confusion in the interpretation of historical sources is related to a settlement called “Little Egypt”.

A significant number of scholars believe that “Little Egypt” was on Peloponnese, while other hypotheses claim to have located this settlement in the area of Izmir or that of Anthiochia. Interpretations related to “Little Egypt” state that Roma lived there “... mainly poor population, men were known as blacksmiths, but who also dealt with shoe-making and mending.... Von Harf was informed that Roma population came in “Little Egypt” from an area called Guppe – Dzipi, 50 kilometers from Modon, which is 120 kilometers from Naphlio...”

As we may see from the above mentioned examples, there are clear declarations and scripts of individuals as “Egyptians”, while some scholars classified them as Roma, observing the historical sources with a time distance of six centuries! Educated in the framework of the so called Aryan model, these scholars constructed a hypothesis, without having a strong argumentation, that the declaration of the people in the Middle Ages as “Egyptians” had been caused by the different migration waves of Roma: the first wave had come through Minor Asia, Bulgaria, Serbia, Vlachia and Moldova; the second from Egypt or Little Egypt, then people declared as “Egyptians”,

and settled in Peloponnese, Albania, Macedonia, Kosovo, Monte Negro and Dalmatia, and by the way they lost their Roma language!?

We use the cultural anthropological approach of interpretation towards these historical sources and perhaps this approach can clarify the uncertainty. It is very well known that the Roma population in XIII and XIV century led a wandering/nomadic life. Influence or assimilation of the language, culture or even in the anthroponomy of the wandering/nomadic people is almost impossible. This process is characteristic for sedentary people. For that reason, most of the above mentioned historical sources concern the Balkan Egyptian population as inhabitants in properties of the monasteries Ksiropotama and Lavra, where they clearly worked as farmers. From the documents where Vlaho and Vitan in the 1362 archive from Dubrovnik are mentioned, it is obvious that it worked for assimilated sedentary and native people, because their names have Slavic or Aromanian/Vlach etymology. A big number of “Egyptians” in the area of Durres that could have spoken with St. Barbarous in IX century, cannot be in any case in relation to the Roma population, which came to the present Albanian territory few centuries later.

The mentioned area of “Guppe- Dzipi” as toponym, which points directly to Egypt, obviously belonged to the Egyptian population, because getting a toponymic verification is a long-term process within duration of many centuries. On the other hand, we mentioned that “Little Egypt” is noted in a Register of Settlements in the Byzantine Empire, prepared by Stephan from Byzantine in V century. If we accept the theory that “Little Egypt” is in Peloponnese, than Herodotus’ scripts about the origin of the Dorian leaders, clearly points to the antiquity of blacksmiths from “Guppe-Dzipi”. Of course, we cannot ignore the hypothesis that the Roma population migrated in Peloponnese in XIV century, and later spread the legend of Counts from “Little Egypt”, for a better prestige in the West European society.

For centuries, after coming to Europe, the Roma were subjected to various types of state policy. Ideas emerged gradually and relatively slowly in the Roma community about their place in the society in which they live and the potential for their development as a united community. The Roma are internally segmented as a community and live in different countries with different social and political environments, nevertheless the idea of their unity and their equality to the rest of the nations has emerged in modern times. This conceptual development is complex, multi-directional and influenced by various factors. The

ideas are most often perceived because of the “outside” influence of the social environment and the Roma often seek analogies with other nations²⁸.

The **Decade of Roma Inclusion** is an initiative of 12 European countries to improve the socio-economic status and social inclusion of the Roma minority across the region. The initiative was launched in 2005, with the Decade of Roma Inclusion running from 2005 to 2015, and represents the first multinational project in Europe to actively enhance the lives of Roma.

The 12 countries taking part in the Decade of Roma Inclusion are Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Hungary, Macedonia, Montenegro, Romania, Serbia, Slovakia, and Spain. All of these countries have significant Roma minorities that have been rather disadvantaged, both economically and socially.

* * *

The EU has developed an approach to review the protection of minorities in the process of enlargement. Two main approaches have evolved for the protection of minorities: anti-discrimination and minority rights. These approaches respond to the two major risks minority communities confront: exclusion and assimilation. In the face of exclusion, anti-discrimination measures are essential to ensure that members of minorities are not treated differently, or in some cases equally, with adverse consequences. On the other hand, under the pressure of assimilation, minority rights allow individuals as well as communities to preserve and nurture the differences that are core to their particular identities. Minority rights include measures for the protection and promotion of minority identity, including language, culture, education and religion; as well as participation in public, economic, social and cultural life.

However, the latest relevant EU level development indicates that issues related to minority protection will continue to be regulated within the framework of the anti-discrimination, possibly allowing for more inclusive reading of the available standards to include minorities. At the same time, the EU continues to apply its compressive approach to the protection of minorities in its enlargement monitoring. The future Fundamental Rights Agency could decrease the gap between the internal and external policies of the EU in the field of minority protection²⁹.

28 Marushiaikova, E., Popov, V. “The Roma - a Nation without a State? Historical Background and Contemporary Tendencies.” - In: Burszta, W., Karnusella, T., Wojciechowski, S. (Eds.) Nationalismus Across the Globe: An overview of the nationalism of state-endowed and stateless nations, Poznan: School of Humanities and Journalism, 2005, 433-455.

29 Minority Rights Advocacy in the European Union: A guide for NGOs in South- East Europe, Minority Rights

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**The Effective Participation of Ethnic Communities Vulnerable to
Racial Discrimination (ECVRD) in the Public Life of the Western Balkans –
A Legal Analysis**

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1. Introduction

It is an important value of an inclusive society to promote the rights of minorities. Numerous instruments of international law on human rights regulate this principle. The European history has proven that the unsolved minority issues may disturb the internal balance of the State, as well as the peaceful relations among the States.

The political systems frequently fail to develop the inclusive participatory democracy as an important element of the good and democratic governance. The failure to take into sufficient consideration the interests of the whole population gives rise to discrimination. According to the OSCE Lund recommendations on the effective participation of minorities in public life, 1999 “...no electoral system is neutral from the perspective of varying views and interests... States should adopt the system which would result in the most representative government in their specific situation. This is especially important for persons belonging to national minorities who might otherwise not have adequate representation.”¹

Albeit the legal analysis is hardly sufficient for the full understanding of the kind of phenomena as discrimination, it does, (together with the analysis of the institutionalized practices) create an important framework in which different political, economic and social factors interplay. Thus, the legislative framework is paramount for the efforts of the States to ensure maximum opportunities for contributions from those affected by public decision making. The sole aim of the present research is the legal analysis.

Although the participatory democracy and the inclusion of the minorities in the public decision making forms a much broader field, this research attempts to investigate various legislation concentrating solely to the questions influencing the elections. This research is particularly concerned with the discrimination based on the ground of race or ethnicity. However, where necessary, it pays due attention to the existing regulation concerning the position of the minorities within minorities (for example, the position of women who belong to a certain minority or the refugees).

This paper aims to provide an overview of the main problems with regard to the legislation influencing the elections in several States in the Western

¹ The Lund Recommendations of the Effective Participation of Minorities in Public Life & Explanatory Note, OSCE HCNM, September 1999, Netherlands. See explanatory Note 8, p. 23

Balkans. The paper is based on the findings presented in separate research papers concerning the legal regulation in several States of the Western Balkans. We would particularly like to thank Ilija Milchevski, Jovan Ananiev and Stana Scepanovic, whose research findings have been used in this paper. The language and other obstacles made the access to some States' legislation difficult, thus, the data provided for different States differ in their scope. The method employed in this paper also posed a challenge. Namely, despite of some obvious similarities, the general conditions, as well as the legal solutions with regard to minorities (ECVRD in particular) differ in separate countries to such an extent that the entire rationale of the employment of the comparative legal analysis was put in question. An additional difficulty is the fact that the project concerns five legal systems. For these reasons, the analysis does not aspire toward a full employment of the comparative method and frequently satisfies itself to analyze the features of each of them separately. In order to somewhat overcome the later limitation, two full country analysis have also been enclosed in this Collection.

The paper begins with an overview of the three most important international law documents concerning this issue. Afterwards, it provides some basic statistical data with regard to the ECVRD in question. The research questions that it aims to answer in the following sections largely rely on the structure provided by the Lund recommendations (see methodology enclosed to this Collection). The final section of the paper provides some general recommendations, as well as few conclusions.

2. International legal instruments

One obvious similarity among all of the States whose legislative systems form a subject of this analysis is their declared readiness to develop the values of democracy, the rule of law and promotion of human rights. All of them have signed and ratified the most important instruments concerning the human rights and they have been subjected to regular monitoring by several international organizations and bodies with regard to the developments in these fields.

Although the full list of international legal instruments concerning the political participation of minorities is much longer (see the section on sources in the methodology enclosed to this Collection), this section of the paper will provide a brief outline of three most important legal instruments with regard to these rights: the OSCE Lund recommendations on the effective

participation of minorities in public life 1999, International Convention on the Elimination of All Forms of Racial Discrimination 1965 and Framework Convention for the Protection of National Minorities, Strasbourg 1995.

According to article 1 of the **Lund recommendations on the effective participation of minorities in public life, 1999**: “Effective participation of national minorities in public life is an essential component of a peaceful and democratic society. Experience in Europe and elsewhere has shown that, in order to promote such participation, governments often need to establish specific arrangements for national minorities...” Article 6 provides that: “States should ensure that opportunities exist for minorities to have an effective voice at the level of the central government, including through special arrangements as necessary....”

With regard to the elections, article 7 provides that: “Experience in Europe and elsewhere demonstrates the importance of the electoral process for facilitating the participation of minorities in the political sphere. States shall guarantee the right of persons belonging to national minorities to take part in the conduct of public affairs, including through the rights to vote and stand for office without discrimination.” In addition, article 9 provides that: “The electoral system should facilitate minority representation and influence.

- Where minorities are concentrated territorially, single member districts may provide sufficient minority representation.
- Proportional representation systems, where a political party’s share in the national vote is reflected in its share of the legislative seats, may assist in the representation of minorities.
- Some forms of preference voting, where voters rank candidates in order of choice, may facilitate minority representation and promote inter-communal cooperation.
- Lower numerical thresholds for representation in the legislature may enhance the inclusion of national minorities in governance.”

In addition to this, article 10 regulates that: “The geographic boundaries of electoral districts should facilitate the equitable representation of national minorities.”

With regard to the minority political parties which normally form the most important actors in the articulation of the minorities’ interests, article 8 provides that: “The regulation of the formation and activity of political parties shall comply with the international law principle of freedom of association. This principle includes the freedom to establish political parties based on communal identities as well as those not identified exclusively

with the interests of a specific community.”

The UN International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965 specifies a range of rights in the sphere of political participation. Thus, according to article 5: “... States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law....” The list of rights enumerated in the same article include the right to equal treatment before the tribunals and all other organs administering justice; political rights, in particular the right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service. Among other civil rights, article 5 enumerates the right to freedom of opinion and expression, as well as the right to freedom of peaceful assembly and association.

The Convention also envisages the employment of special measures. According to article 1.4:“Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.”

Importantly, according to article 2.1.: “(c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists; (d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization.”

Within the system of the Council of Europe, **Framework Convention for the Protection of National Minorities, Strasbourg, 1.II.1995** ensures a wide range of rights concerning the political participation of minorities. Thus, according to its article 3:

“1. Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are

connected to that choice.

2. Persons belonging to national minorities may exercise the rights and enjoy the freedoms flowing from the principles enshrined in the present framework Convention individually as well as in community with others.”

In addition, article 4 provides that:

“1. The Parties undertake to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority shall be prohibited.

2. The Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities...”

Most importantly, article 15 reads that:

“1. The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.”

In addition, article 7 provides that:

“1. The Parties shall ensure respect for the right of every person belonging to a national minority to freedom of peaceful assembly, freedom of association, freedom of expression, and freedom of thought, conscience and religion.”

Article 9 reads as follows:

“1. The Parties undertake to recognise that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority language, without interference by public authorities and regardless of frontiers. The Parties shall ensure, within the framework of their legal systems, that persons belonging to a national minority are not discriminated against in their access to the media.

2. Paragraph 1 shall not prevent Parties from requiring the licensing, without discrimination and based on objective criteria, of sound radio and television broadcasting, or cinema enterprises.

3. The Parties shall not hinder the creation and the use of printed media by persons belonging to national minorities. In the legal framework of sound radio and television broadcasting, they shall ensure, as far as possible, and taking into account the provisions of paragraph 1, that persons

belonging to national minorities are granted the possibility of creating and using their own media.

4.In the framework of their legal systems, the Parties shall adopt adequate measures in order to facilitate access to the media for persons belonging to national minorities and in order to promote tolerance and permit cultural pluralism.”

Article 10 entails that:

“1.The Parties undertake to recognise that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally and in writing.

2.In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities...”

In the sections which follow, we will refer to these provisions in order to obtain a picture how, if at all, they have been observed by the States in question with regard to the ECVRD.

3. ECVRD in the Western Balkans

The following section provides a brief outline of the ECVRD which live in the Western Balkans, their estimated numbers, geographical dispersion, and, most importantly, the issues of their legal recognition and Constitutional position.

There is no available data on the exact **number of members of ECVRD** in the countries of the Western Balkans. In Macedonia, Roma live dispersed throughout the State, although they also form majority in some municipalities (such as Shuto Orizari in Skopje). Officially, their number is 52 000, but some estimates argue in favor of 100 000 or 150 000 people. The communities of Ashkali and Egyptians are not clearly differentiated from Roma. Ashkali largely live in the region of Polog, they are little known in the country and there is no reference on them in the official State documents. Obtaining reliable statistics on their number and dispersion is necessary in order to conceive any coherent strategy for advancement of their rights. The Egyptians live in the Ohrid region and it has been estimated that they number 5000 members.

In Serbia, the census from 1991 numbered 70 000 Roma, in Kosovo 45 000 and in Vojvodina 24 000. In Serbia proper, they populate mostly Southern Morava and Nish region, but a large number lives dispersed throughout the country. Some sources estimate that their number is 450 000 - 500 000. Roma are not clearly differentiated from Ashkali and Egyptians. Although the later were officially recognized in the census of 1991, their exact numbers are not known.

In Montenegro, Roma and Egyptians live dispersed in the southern and central parts of the country. Roma form 0,42% of the population, but this statistics has been disputed. The Egyptians formed 0,04% of the population in the census from 2003, and the number of Ashkali, who are mainly refugees, is not known.

The situation in Kosovo is also unclear. The estimates from 1998 argue in favor of 97 000 Roma and 41 000 Egyptians, and the number of Ashkali is not known. The Roma community lives mostly in the Serbian-dominated areas in Kosovo, but there is a large community in Prizren, as well. Thousands of Roma fled from Kosovo in 1999 and live as Internally Displaced Persons, mostly in south Serbia and north Kosovo. Ashkali live mostly in Kosovo Albanian populated areas.²

In Albania there are no official statistics with regard to the size of these populations. According to Sinani: "Statistical data for the number of Roma living in Albania does not exist because the census did not give them the option to identify as Roma. The Roma people have settled mostly in Central and Southern Albania.....With the democratic changes, many Roma families have moved from other cities and district and settled basically in the suburbs of Tirana. ... A part of the Roma community began leading a nomadic lifestyle. Whole families emigrate to Greece or Macedonia for six to seven months a year."³ There is also an Egyptian community which makes continuing efforts to be recognized as a minority, but the Albanian Government does not recognize it due to the lack of linguistic element.⁴

It is evident that the criteria employed in the national censuses with regard to the ethnic composition of the population differ in all of the above mentioned States of the Western Balkans. Thus, in countries like Serbia and Kosovo the census criteria differentiate among these communities. Macedonia recognizes only the Roma community, while the other ECVRD, as well as

2 Gezim Visoka, 'Political Parties and Minority representation: Case of Roma, Ashkalia and Egyptians in Kosovo' in 'Political Parties and Minority Representation' Friedrich Ebert Stiftung, Skopje, 2008, p.153.

3 Gjergj Sinani, 'Minority in Albania and Their Representation in Public Life' in 'Political Parties and Minority Representation' p. 208.

4 Sinani, op. cit, p. 209.

some non-ECVRD minority communities have been classified in the census as “others”. On the other side, according to the Albanian census criteria, apart from the large minorities, the small minorities, or ECVRD simply enter the category “other”.

The situation has been even more complicated by the members of ECVRD themselves, as they sometimes refuse to declare their ethnic origin correctly. Equally, the political upheavals which happened throughout former Yugoslavia left some of the members of ECVRD as internally displaced persons or refugees. It has even been noted by many observers that throughout the region an important number of ECVRD lack citizenship and other personal documents.

One may conclude, than, that in order to conceive of any policy aiming toward the enhancement of the position of ECVRD, proper census of the population should be conducted. The census criteria should guarantee for correct and reliable data for all ethnic communities. The proper statistics may also be employed to prove the existence of indirect discrimination, once this kind of cases find their way in front of the courts and human rights commissions throughout the region. The solving of the issues of lack of citizenship and other personal documents should be a top priority.

The **legal recognition** of minorities in the States of the Western Balkans forms one of the most interesting themes of the contemporary comparative Constitutional law. Namely, the multicultural model, insisting on inclusive institutions, seems to be ideally suited for the States of the Western Balkans with their diverse ethnic maps. Yet, the solutions differ from one case to another.

The most interesting is the case of Macedonia where the recent Constitutional history may be divided in two periods. There, the Preamble of the first Constitution of Macedonia from 1991 defined the State as: “a national state of the Macedonian people, in which full equality as citizens and permanent co-existence with the Macedonian people is provided for Albanians, Turks, Vlachs, Romanies and other nationalities living in the Republic of Macedonia....”⁵ This formula was amended following the dramatic events from 2001, when an internal armed conflict occurred between the Albanian groups and the Government forces. The new Preamble referred to: “Citizens of the Republic of Macedonia, the Macedonian people, as well as citizens who live within its borders and are members of the Albanian people, Turkish people, Vlah people, Serbian people, Roma people, Bosniak people and other.....”⁶.

5 Official Gazette No. 52/91.

6 Amendment IV of the Constitution, Official Gazette No 91/2001.

The changes from 2001 introduced a multicultural model of a State, based on Lijphartian consociativist model. Balanced representation of the ethnic communities in the institutions of the State and minority rights were guaranteed. Thus, instead of being a nation-state of the Macedonians where numerous other people live, according to the changes, the State became multicultural, albeit unitary. The major legal changes which followed the Ohrid Framework Agreement referred to the use of the Macedonian language, as well as the use of languages spoken by non-majority communities; adequate and equitable representations in the State government bodies and other public institutions; legal equitability of religious communities; fostering the identity; double majority in decision making at plenary sessions in the Assembly; extension of powers of the local self-government units. All of these rights were intended to improve the Constitutional position of the Albanian minority. It is interesting to note that from the point of view of numerous ECVRD living in the country, this was not necessarily a beneficial development. Thus, although the importance of ECVRD was recognized, the members of these communities gained little opportunity to integrate. Also, the numerous legal changes provided advantages for the Albanian ethnic community, while numerous other communities (ECVRD) living in Macedonia had little benefit from it.⁷

We may consider yet another example from the region. According to article 1 of the Constitution adopted in 2006, the Serbian State is comprised of “Serbian people and all citizens who live in it, based on ... human and minority rights and freedoms...”. The State belongs to the Serbian people. The Constitution does not provide a definition of ethnic minorities, neither it enumerates any of them. However, it does guarantee the individual and collective rights of the persons belonging to minorities and a wide range of rights are introduced in the Constitutional provisions. The protection of minorities is based on the Act on the Protection of Rights and Freedoms of National Minorities adopted in 2002. According to it, all groups of citizens who consider or define themselves as peoples, national and ethnic communities, national and ethnic groups, nations and nationalities comprise national minorities. Article 2.1. defines a national minority as: “a group of citizens ofsufficiently representative, although in a minority position on the territory ..., belonging to a group of residents having a long term and firm bond with the territory and possessing some distinctive features, such as language, culture, national or ethnic belonging, origin or religion, upon which it differs from the majority of the population, and whose members

⁷ Further on this question in the case study compiled by Jovan Ananiev in this Collection.

should show their concern over preservation of their common identity, including culture, tradition, language or religion.” article 75 of the Constitution guarantees persons belonging to national minorities the right to elect their National Councils in order to regulate the policies with regard these particular issues. Thus, apart from the minority political parties, a crucial institution for protection of minority rights are the National Minorities’ Councils.

Yet another example is the case of Montenegro.⁸ There, the Constitution⁹ does not refer to a dominant ethnic community, but provides a list of nationalities living in the State. The Constitution does not provide a definition of minorities. However, according to the article 2 of the Law on Minority Rights and Freedoms,¹⁰ minority is any group of citizens of the Republic, numerically smaller than the prevailing population, which has common ethnic, religious or linguistic characteristics, different from the rest of the population, historically connected with the Republic and motivated by the desire to express and preserve its national, ethnic, cultural, linguistic and religious identity. The nationalities enumerated in the Preamble living in Montenegro are: “... Montenegrins, Serbs, Bosniaks, Albanians, Muslims, Croatians and others ...”. It defines them as: “... free and equal citizens, members of nations and national minorities who live in Montenegro.” Roma and Egyptians have not been enumerated in this list.

According to article 3 of the Constitution of Albania from 1998: “pluralism, national identity and inheritance, religious coexistence and the coexistence with, and understanding of the Albanians for minorities” form the basis of the Albanian State. The Constitution guarantees them full equality before the law and in the exercise of their freedoms and rights, and acknowledges them the right “freely to express without prohibition or compulsion, their ethnic, cultural, religious and linguistic belonging” and the right “to preserve and develop them, to study and be taught in their mother tongue, and to unite in organizations and associations for the protection of their interests and identity”.¹¹ The minorities have not been enumerated and, as it will be shown later, their political participation in general has been slow to develop.

The legal recognition of minorities present in most of the Western Balkans constitutional models forms a heritage from the former Yugoslav federation where the national and minority issues played a prominent role. This politics was based on the conscious efforts of the State to reconcile as

⁸ A full account on Montenegro in the case study by Stana Scepanovic is enclosed to this Collection.

⁹ The Constitution of Montenegro was adopted on October 2007, Official Gazette of Montenegro, no. 1/07.

¹⁰ Official Gazette of Montenegro, no. 31/06, 51/06 and 38/07.

¹¹ Sinani, op. cit, 201-202.

many national positions, as possible. Having in mind the widely diverse ethnic map of the country, it was a necessary policy. Today, it is also seen as a good alternative to the upheavals that the unsolved minority issues produced a decade ago. Albania has never been a part of the Yugoslav federation and it had a completely different State development where the avoidance of minority issues turned out to be possible. The contemporary disadvantaged position of minorities, although some improvements are visible, builds on this development.

At the moment, the most interesting case in the region is probably Macedonia, where the Constitution lists several ethnic communities, among which Roma, as well as the general category of “others”. Equally, the ethnic communities form a constitutional category in Kosovo where the Constitution refers to “multiethnic society consisted of Albanian and other communities”. The second model, which exists in Serbia and Albania, relies on the classic model of a nation-state with national minorities (although, as it will be shown later, the Serbian political system and culture shows more awareness toward the minority issues). At the end, the Constitution of Montenegro solely lists various nationalities living in the country, and one may note that all of the ECVD have been omitted from the list. These Constitutional solutions determine different models of political representation of ECVRD which have been developed in the countries of the region.

4. Individual political rights

According to the Lund Recommendations, the effective participation of ECVRD in public life relies on the guaranteed right to vote and stand for office without discrimination.¹² The same right has been regulated by the article 5 of the Convention on the Elimination of All Forms of Racial Discrimination. In addition, several provisions of the Council of Europe, Framework Convention for the Protection of National Minorities refer to this issue.¹³ Thus, in order to estimate the level of political participation of minorities, it is important to know how the Constitution, as well as the secondary legislation, regulates the individual rights, such as the right to vote and in particular the right to a secret ballot; the right to regular and fair elections; the right to stand for public office; freedom of association; freedom of assembly; freedom of expression.

12 Lund recommendation on elections No 7.

13 See article 15, article 4.1, as well as article 7 of the Council of Europe Framework Convention for the Protection of National Minorities.

The legislation concerning the fundamental political rights in Macedonia does not contain provisions with a discriminatory effect upon the persons belonging to small ethnic communities and even the close scrutiny shows that is difficult to argue that any provision concerning direct or indirect discrimination can be traced. The further sections of the analysis will show, however, that the above guarantees and the compliance with the international human rights mechanisms are far from sufficient to provide Roma, Ashkali and Egyptians with a satisfactory level of public participation.

If we look closer toward the provisions regulating this issue in separate countries, we may notice sometimes obstacles. Thus, for example, concerning the suffrage, the Constitution of Montenegro identifies the principles of equality, universality, privacy and directness of the vote in the elections (Article 45). The Constitution provides that the right to elect and be elected shall be granted to every Montenegrin citizen who is 18 years or older, with at least two years of residence in the country. The Constitutional provision concerning two-year residency requirement to elect and be elected is not consistent with the principle of universal suffrage.¹⁴ There is no data, however, how does this affect the Roma or Egyptians, as an indirect discrimination may occur only in cases when a disparate number of them suffer from this provision. It is important not to overestimate this kind of provisions. Namely, even if indirect discrimination can be traced, one can hardly believe that this provision is the sole reason for the lack of political participation of Roma or Egyptians in Montenegro. Also, one should keep in mind that this is one of many provisions where ground research should be undertaken, as at the moment, in general, there is very little data on the participation of Roma or Egyptians in the political life and in the elections in Montenegro.

Namely, all of the contemporary States from the Western Balkans have declared their aspiration toward the respect of human rights and the rule of law. All of them form a subject of regular monitoring of several international organizations. Equally, all of them cultivate ambitions toward the membership in EU and NATO. For all of these reasons, they can hardly permit themselves omissions in the Constitutional and legal guarantees with regard to the fundamental political rights. Indeed, as the enclosed case studies on the situation in Montenegro and Macedonia show, the Constitutions, Electoral Codes, as well as other domestic laws contain a wide range of provisions providing for the fundamental political rights. The States have signed and ratified numerous international legal instruments regarding the human rights protection. Overall speaking, the reasons for the unsatisfactory level

14 OSCE/ODIHR Election Observation Mission Final Report in 2009, <http://www.osce.org/odihr-elections/documents.htm>

of political participation of some categories of citizens in the States of the Western Balkans are not due to the lack of guarantees of the fundamental political rights, as proclaimed in the laws and Constitutions.¹⁵

5.Legislation concerning the political parties

The legal systems should guarantee the right of the ethnic communities to form a political party based on a communal identity, although the opportunities for forming political parties which have not been based on ethnic identity should also exist. The legislation concerning the political parties has a major influence on the ability of ECVRD to participate in the public life.¹⁶ Provisions from several international instruments for the protection of human rights can also be invoked to guarantee this principle.¹⁷ The existing regulation is supposed to enshrine the freedom of association, as a major principle in the international law on human rights. It is also important to analyze the regulation concerning the funding of political parties during the elections and its effects on ECVRD parties.

In Serbia, article 3 of the Act on Political Parties defines a national minority party as a party: “whose activities, defined by its Articles of Association, program and statute, are particularly directed at presenting and advocating the interests of a national minority and the protection and promotion of the rights of the persons belonging to that particular national minority in accordance with the Constitution, law and international standards”. In order to avoid indirect discrimination, the Act has diminished the number of signatures necessary for registration. A national minority party is formed by 1000 adult citizens. In comparison, regular (majority) parties need 10,000 citizens’ signatures to register. By May 2010, 72 parties were registered, out of which 42 were parties of minorities. All of the five registered parties of ECVRD are Roma parties. Additional forms of political organization devised as means of electoral competition are the lists for National Minorities’ Council elections. There are several Roma, Egyptian and Ashkali national minority lists.

Equally, in Macedonia there are numerous political parties, based on ethnic identity, as well as parties which are not mono-ethnic. It is difficult to

15 One notable exception are the difficulties with obtaining citizenship and other personal documents. This issue will be treated in more detail further in the paper.

16 Lund Recommendation on elections No 8.

17 See, for example, article 5 of The UN International Convention on the Elimination of All Forms of Racial Discrimination Convention; article 7 of the Council of Europe Framework Convention for the Protection of National Minorities.

argue that the legislation concerning the political parties and their funding discriminates the ECVRD. On the contrary, there are numerous political parties which have been founded by Roma and Egyptians.

Concerning Montenegro, one can also argue that the Law on political parties does not interfere with the freedom of association, which is guaranteed by the Constitution and signed international instruments. Limitations provided in the law do not violate international standards and they do not effect negatively upon efficient participation of national minorities in public life. Political parties in praxis function without limitations or exterior influences. It is also possible to form a political party based on communal identity (ethnicity), as there are no such restrictions in the law. The same applies to the Law on funding of political parties. There are no limitations concerning the organizing and funding of political parties of national minorities that would bring Roma, Ashkali and Egyptians under discrimination or unequal position. There are no legal barriers to their political organizations. However, Roma and Egyptians in Montenegro do not have their own political party. This fact points that it is not the legal obstacles, but the degree of (non)integration of the Roma in the Montenegrin society which prevents them from having their authentic representation.

In Kosovo, after the war, several political parties of these communities have also emerged. In Albania, there are also some positive developments. Thus the Law No. 8580 on political parties, dated 17.02.2000, gave a large space for the establishment of political parties on ethnic base with the condition that the parties do not embrace into racial, religious and ethnic hatred.¹⁸ Yet, there are no political parties of ECVRD.

One may conclude that generally in the region, founding and existence of the ECVRD political parties does not pose major difficulties. In some States, such as Macedonia, Serbia and Kosovo, the existing legislation has enabled these communities to found political parties on ethnic basis. In Montenegro, the reasons for the non-existence of such parties do not seem to be legal. We may turn now to the complicated issue of the electoral models to find out more on the possibilities for effective participation of these communities.

6. Legislation concerning the electoral system

The legislation concerning the electoral system has a major influence

¹⁸ Sinani, op. cit, p. 215.

over the adequate representation of ECVRD. According to article 1 of the Lund recommendations on the effective participation of minorities in public life: “Effective participation of national minorities in public life is an essential component of a peaceful and democratic society. Experience in Europe and elsewhere has shown that, in order to promote such participation, governments often need to establish specific arrangements for national minorities...” In addition, article 9 provides that: “The electoral system should facilitate minority representation and influence....”¹⁹ The UN International Convention on the Elimination of All Forms of Racial Discrimination also envisages the employment of special measures.²⁰ Article 15 of the Council of Europe’s Framework Convention for the Protection of National Minorities reads that: “The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.”²¹

In addition to the representation in Parliament, the legal mechanisms and/or institutional practices determine the further election and participation of the representatives of ECVRD in the executive power - Government bodies or the local governance. According to article 6 of the Lund recommendations on the effective participation of minorities in public life: “States should ensure that opportunities exist for minorities to have an effective voice at the level of the central government, including through special arrangements as necessary....”

With regard to the choice of the electoral model and its openness toward the participation of minorities, there are many differences in the States of the Western Balkans.

Montenegro provides special measures guaranteeing the representation of the Albanian minority. However, there is no ethnic political party representing the interests of ECVRD, neither ECVRD MP’s from mainstream political parties. During the distribution of mandates in the Parliament of Montenegro, d’Hondt method is used and the two political parties with largest number of votes benefit from it. This electoral census poses indirect discrimination to Roma and Egyptian communities, and it is in contradiction to the effective implementation of the constitutional guarantees to the minority nationalities’ members and to other national minority communities. According to article 79, paragraph 9 of the Constitution, there is right to “... authentic representation within Montenegrin Parliament and within

19 See above the full text of article 9.

20 See above the full text of article 14.

21 See above the full text of article 4.2.

local governing councils in municipalities where they make a significant part of population according to a principle of affirmative action". On the contrary, article 12. 3 and article 4 of the Law on the Election of Council Members and Members of Parliament predict authentic representation only for the Albanian nationality.

Discrimination also exists with regard to the registration of an electoral list. The law requires submitting support signatures of 1% of the electorate (about 4 200) or 1% of electorates from the municipality for the local elections. In case of the electoral lists of the Albanians, only 1000 support signatures, or 200 signatures in the case of electoral lists for local elections (Article 43) are required.

Roma National Council has also been founded, in accordance to the Law on Minority Rights and Freedoms (article 33). Article 35 of this Law specifies the role of the minority Councils which represents and advocates for the minority. This Council has not managed so far to bring large changes in the position of Roma and it does not try to pose any demands regarding the new Electoral Law.

The provisions on the electoral system, in principle, also apply to the local elections. During the elections, the poll ballots are printed in minority language in places where minorities live in substantial numbers. In Practice this right is used only by the Albanians.²² Roma and Egyptian population is usually too small and dispersed to take advantage of this provision. Still, there is place for the application of this provision at least in the polling stations that they use.

Further, there are no representatives in the Government or Parliament who could be elected as representatives in non-ECVRD political parties, apart from one sole member in the local council in Podgorica. Also, although the proportional minority representation within state and local authorities is sufficiently regulated by the existing Constitutional provision²³ and the Law on Minority rights,²⁴ there is no implementation and the statistical data are entirely lacking,

The electoral system is not the sole reason for the lack of the political representation of Roma and Egyptians in Montenegro. Still, it is evident that the current electoral system is not favorable for numerically small minorities. The legislation needs to change in order to implement effectively the principle of the "authentic representation of minorities in Parliament". In this way, representation of Roma and Egyptians in the Parliament may be

²² Article 11, Law on Minority Rights and Freedoms.

²³ Article 79, item 12.

²⁴ Article 22.

ensured, similarly to the model used for the Albanian representation.

In Macedonia, the picture is rather different. Several mechanisms concerning the minority rights have been envisaged. Thus, due to the changes introduced in 2001, with reference to laws directly affecting culture, language use, education, personal documents and use of symbols, the Assembly makes decisions by a majority vote by attending MPs, and in addition requires a majority of votes by attending MPs who are members of non-majority communities. Disputes regarding the application of this provision are resolved by the Committee on Inter-Community Relations.²⁵ This body consists of 19 members of the Assembly out of which seven Macedonians and seven Albanians and one Turk, Vlah, Roma, Serb and Boshniak. It considers issues of inter-community relations in the Republic and provides opinions and proposals for solutions. The Assembly is obliged to take into consideration opinions and proposals of the Committee and to make respective decisions.²⁶

The ethnic structure of the Assembly and the composition of MPs for the term 2008- 2012, with total number of 120 representatives²⁷ shows that there are 67, 5% Macedonians, 24,1% Albanians, 0,8% Turks, 0,8% Roma, 3,30% Serbs, 0,8%, Bosniaks, 1,6% Vlah and 0,8% other. The stated statistical data lead us to conclude that ethnic communities, except Turks and Roma, are adequately represented. The representatives of Ashkali or Egyptians are not represented at all.

The Electoral Code does not envisage a certain census/eliminatory threshold /prohibitory clause, in other words, a minimal percentage of votes that have been won, in order to permit them to be calculated – which is extremely advantageous for the smaller political parties, like those founded by ECVRD. At the moment, the Macedonian legislation does not envisage special quotas (guaranteed seats) for those belonging to the small communities neither in the case of the election of deputies, nor in the case of the election of council members, although they may enhance the representation. An improvement of the representation may also be achieved through introducing a single electoral unit for the entire state during the parliamentary elections. Such a development may greatly enhance the opportunities of the small political parties whose voters live dispersed throughout the State, such as the Roma. It may not be a good solution, however, for the political parties whose voters live in just one part of the state, such as Ashkali.

25 Amendment X of the Constitution of RM.

26 Amendment XII of the Constitution of RM.

27 According to the Report on the work of the Assembly of Republic of Macedonia for the period 21. 06 2008- 31. 12 2008.

On local level, the Law on local Self Government from 2002²⁸ envisages a role for Commissions for inter-ethnic relations within the frameworks of the municipality administration and responsible for the minority communities. Each ethnic community which lives in the municipality will have an equal number of representatives in the commission. The commission gives opinions and suggestions on the issues concerning the relations among the communities living in the municipality. The municipal council is obliged to take into considerations the opinions and the suggestions of the commission. Partly, the commission has embedded the principle of proportionality. However, within the municipal council, the right to a veto is not envisaged.

Another severe difficulty is the practice of buying votes. The Criminal Code²⁹ determines strict sanctions for it. Although various observers argue that the practice of buying votes exists among the Roma, Egyptians and Ashkali electorate, yet, the justice system in the country has not responded adequately. This is probably the most pressing problem regarding the electoral rights of these communities. The endemic difficulties with the implementation of the law in Macedonia, as well as the fact that these voters have poor socio-economic position and weak political awareness make them an easy pray to this sort of buying. A further research and action on these issues is necessary.

Macedonia has frequently been praised for the fact that the representatives of Roma minority seat in the Assembly. They can also be municipal mayors and sit in the municipal councils. However, in order to obtain the presence of ECVRD, an introduction of a strict system of guaranteed seats is necessary. An introduction of a single electoral unit for the entire state may also be a beneficial solution for the proportional representation, in cases when ECVRD live dispersed throughout the State. With regard to the overall participation in the State administration, the situation is also not satisfactory. Precise data lack, but Roma, Ashkali and Egyptians are largely not employed in the public administration. These are issues of political will and political culture in the State. It is also true that many of them are not educated sufficiently in order to obtain these employments. Here, introducing measures of positive action may bring a result.

In Serbia,³⁰ the electoral rules also show some level of sensitivity toward the proportional representation. The allocation formula for the Parliamentary seats is D'Hondt. The Law on the Election of Members of Parliament envisages one electoral district which contributes to the proportionality of

28 Official Gazette No 5/02.

29 Official Gazette No 37/96, 80/99, 4/02, 43/0319/04.

30 For a full account on the electoral model of Serbia, see Mihajlo Pupavac and Ilija Milchevski in this Collection.

the outcome. Although according to the previous regulation the national minority parties could register their list for the elections obtaining 3000 signatures instead of the usual requirement of 10,000 signatures per registration, the law has been changed and they need to collect 10,000 rather than 3,000 signatures. Although three Roma parties participated in the last round of elections, none of them succeeded in passing the threshold and securing a seat in the National Assembly. However, despite of this, there are normally Members of Parliament belonging to major parties who originate from ECVRD. Nevertheless, given the lack of data, these MPs cannot be definitely identified and, in general, they are not active as proponents of the rights of ECVRD. In addition, Councils of National Minorities have also been envisaged in the Constitution. Three ECVRD qualified to have their representatives: Roma, Egyptian and Ashkali. Separate electoral registry was created for every national minority.

On local level, the number of the members of ECVRD on leading positions of municipal government is negligible. Although mainstream parties are careful to have some Members of Parliament originating from ECVRD, there seems to be underrepresentation of ECVRD in leadership of mainstream parties.

One may conclude from this brief recollection that the single constituency model which suits the geographically dispersed ECVRD has been introduced. However, the model of single constituency may have a negative influence over those ethnic communities which live concentrated in only one area. The decrease of the number of signatures for the electoral lists may additionally improve the position of small communities. Guaranteed seats have also not been envisaged, although they may enhance the representation of these communities, at least within the legislative power.

The Constitutional Framework on Interim Self-Government in Kosovo³¹ considers the minority participation through guaranteed seats in the Assembly.³² Among other communities, four seats are allocated to the Roma, Ashkali and Egyptian Communities, three for the Bosniak Community, two for the Turkish Community and one for the Gorani Community. The seats for each of these minorities belong to parties, coalitions, citizens' initiatives and independent candidates having declared themselves representing each of these minorities in proportion to the number of valid votes received by them in the election to the Assembly. Committee on Rights and Interests of Communities,

31 The Constitutional Framework for the Provisional Institutions of Self-Government (PISG) in Kosovo, 2001.

32 In the recently drafted Constitution of Kosovo, Article 22, it is clearly mentioned that human rights granted by the most important international agreements and instruments are guaranteed by this Constitution, are directly applicable in the territory of the Republic of Kosovo and, in the case of conflict, have priority over provisions of laws and other acts of public institutions.”

composed of two members from each of the communities elected to the Assembly has also been envisaged. This body has an authority to review laws and make recommendations regarding the proposed legislation, in order to ensure that Community rights and interests are adequately addressed.

In the composition of the Government there is usually one Minister from the Serb Community and one from another Community. These efforts toward positive discrimination have little effect. The Parliamentarians belonging to small communities have not, so far, proposed legislation, or any policy related with their interest. “While guaranteed (instead of reserved) seats at the Assembly are generally seen among politicians of the majority as an acceptable solution, the same raise concerns about negative effects of guaranteed ministerial seats in government. This is considered to go against the interests of minority communities since it militates against cross-ethnic coalitions and reduces participation of minority communities to a symbolic value.”³³ Nevertheless, the system of guaranteed seats seems to suit the interests of small communities and on a long turn, it may produce further results or more equitable representation of ECVRD in the executive power and in the public administration.

At municipal level, the small communities also enjoy a number of mechanisms to protect their rights and interests. In the spirit of the Constitutional Framework, Regulation 2000/45 provides legal norms which ensure minority representation. In cases of sizable minority population, a Communities Committee, a Mediation Committee and a Communities Office are established. The purpose of these mechanisms is to represent minorities and to ensure that they enjoy, on an equal basis, civil, political, economic, social and cultural rights, and fair and equal employment opportunities in municipality service at all levels.³⁴ Each municipality with significant minority population is obliged to elect a second Deputy President of the Municipal Assembly of an ethnic community. Other mechanisms include “fair-share financing”,³⁵ according to which every municipality with minority communities is obliged to allocate to those communities a proportion of its budget, equal to their size of the community.³⁶

Visoka argues that despite of the legislation, the Roma, Ashkali and Egyptians still have difficulties participating in the decision making on local level. “In the last 9 years, since the UN administration has been deployed in Kosovo, the level of their participation or inclusion elsewhere remains very

33 Visoka, op. cit. p. 171-176.

34 Regulation No. 2000/45 on Self-Government of Municipalities in Kosovo, Article. 23.4b, 2000.

35 KIPED, Integration of Minority Communities in the Post Status Kosovo, 2006, p. 9.

36 For a full account on the representation of Roma, Ashkali and Egyptians in some municipalities, see Visoka in this Collection.

low, especially when we have to deal with the public debates regarding the Kosovo Laws, regulations or Administrative acts in both local and national governmental level.”³⁷

In Albania, as Sinani points out, “the effective participation has only recently become the focus of debate on minority rights.”³⁸ According to the Constitution from 1998, national minorities form an integral part of the Albanian society. Its article 3 refers to the universally known principles of human rights, as well as “pluralism, national identity and inheritance, religious coexistence and the coexistence with, and understanding of the Albanians for minorities”. The Constitution guarantees full equality before the law and in the exercise of their freedoms and rights, and acknowledges them the right “freely to express without prohibition or compulsion, their ethnic, cultural, religious and linguistic belonging” and the right “to preserve and develop them, to study and be taught in their mother tongue, and to unite in organizations and associations for the protection of their interests and identity”. It also envisages a particular status for international instruments, which Albania has signed.³⁹

Sinani reports that: “increasing attention has been paid to the implementation of the Electoral Code 278⁴⁰ without any kind of discrimination for the persons belonging to minorities who have the right to vote. Positive development to increase active participation in the electoral process marked even the foundation of two new parties that represent and protect minorities in Albania.⁴¹ During the elections for the Albanian Parliament of 2005, intensive education and information campaign for electors from national minority groups has been organized. Further changes may be expected. There are proposals for amendments of the Election Code, to allow distribution of information booklets and leaflets in multiple languages in the areas where minority voters live. Also, Memorandum for Cooperation and Understanding between Central Government Authorities and the Local Government, for the Cooperation in the Field of Protection and respect of Minorities Rights in Albania has been envisaged.⁴² The legislation does not provide a

37 Visoka, op. cit, 163-164.

38 Sinani, op. cit, 201.

39 Articles 121 and 122 foresee that each international agreement ratified by the Parliament is part of the domestic legislation. See: Sinani, op. cit, 201-203.

40 In 2004, OSCE/ODHIR and Venice Commission issued the “Joint Recommendation” for the improvement of the legal framework on election in Albania, in order to fulfill the OSCE requirements and other international standards. As a consequence, the Election Code of June 2003 has been amended in October 2004, January 2005 and April 2005.

41 The Movement for Freedom and Human Rights (MFHR), founded after the division from the Union for Human Rights party and the Macedonian minority political party, “The Macedonian Alliance for the European Integration”. The Union for Human Rights dates at the beginning of the democracy in Albania. In fact, in public perception, this party is not a multi-ethnic party, but mostly Greek, while the party of Macedonian Minority was created by the “Union of Macedonian. Sinani, op. cit, p. 215.

42 Sinani, op. cit, p. 220.

specific law, but the minorities' protection is part of the penal, penal procedural, administrative, labor, election legislation etc. Here, as well, positive developments are yet to be expected. Within the Government and the Ministries, several bodies exist with a task to work on the minority issues.⁴³

So far, the level of participation of ECVRD in the public life is very low. The Roma minority is represented with one member in the Minorities' State Committee; one member in the Municipal Council No. 4 in Tirana and one member in the communal council in the village of Ndërnënas in Fier. The first opinion of the Advisory Committee on the FCNM states particular concern about the low level of participation of Roma in economic life, as well as their very low level of participation in the public service.⁴⁴

A national strategy "For the improvement of the Living Condition of the Roma Minority" was passed by the Council of Ministers in 2003. According to Sinani, "The implementation in practice has encountered difficulties and moved forward slowly. There is lack of effectiveness of the responsible government institution to ensure appropriate measures had an important impact. The lack of effective involvement in the implementation of the strategy is most obvious in the local government structure, as well as the lack of cooperation between local and central governmental institutions on the exchange of information related to completed measures."⁴⁵ Still, despite of the limited implementation, this Strategy permitted the recognition of Roma as a minority. With regard to the Egyptian community, despite its efforts to be recognized, the Albanian Government refuses it, due to the lack of linguistic criteria for recognition.

It is evident that there are visible differences among the electoral models in the States of the Western Balkans. One obvious reason for this is the fact that although all of these States have a diverse ethnic composition, they still largely differ from each other. Thus, for example, in the case of Macedonia and Montenegro, the arrangements to accommodate the Albanian minority clearly derive from the fact that the size of this minority numbers thousands of people who live, more or less, territorially concentrated. On the contrary, in Serbia there is no ethnic community with a size which would require a preferential position in comparison to the other ethnic community. One is also tempted to conclude that the main difficulty with requiring arrangements enhancing the participation of ECVRD is exactly the small size of these communities. Still, it does not have to be entirely true, having in mind that some sources estimate 100 000 or 150 000 Roma people in Macedonia

43 Sinani, op. cit, p. 221.

44 Compilation of opinions of the Advisory Committee on the FCNM, First cycle, Council of Europe, 2006, p. 16.

45 Sinani, op. cit, p. 209.

(the official number is 52 000) and there have been estimates of half million Roma in Serbia, although, understandably, these statistics need to be proven officially.

Another reason for the differences is the recent history of these States. Thus, the most advantageous solution (guaranteed seats) exists in Kosovo, whose legal system was formed under direct influence of the international community. In Macedonia, the Ohrid Agreement which was the basis for the minority regulation was also concluded after the conflict in 2001 under supervision of the international community.

Living the numbers and politics aside, one may conclude that from the legal point of view, there is a case (Albania) where so far there are neither arrangements concerning the representation of minorities on central, nor on the local level. Regarding the ECVRD, there are no political parties represented in the Parliament, neither MP's from mainstream political parties which publicly declare their affiliation with ECVRD. The electoral system in Montenegro is sensitive toward the representation of the Albanian minority, but it does nothing to accommodate to the representation of the small communities. On the contrary, in Serbia, Macedonia and Kosovo there are some opportunities for the representation of the small communities in the Parliament. In this group, the Kosovar system seems to be the most advanced, through the employment of the guaranteed seats in the Assembly.

Having in mind the broad picture of the distant and recent political history, as well as the current low level of political culture in the above States, one cannot refrain to admire the sensitiveness of these electoral systems toward the representation of the numerically smaller ethnicities. Yet, the admiration fades quickly. In the most advanced cases, as well as in Montenegro and Albania, the further representation of ECVRD in the executive power has been particularly unsuccessful. The Assembly seats and a certain level of representation in the local governance have not yet produced channels through which these may transform into a more general political participation of the ECVRD. Roma, Ashkali and Egyptian communities remain on the margins of the public life. Yet, the reasons for this are only partly legal. As the political analysis which forms part of this Collection will demonstrate, the reasons for this are to be found in the economic and social disadvantages the members of these communities face.

7. Regulation concerning the geographic boundaries of electoral units

Article 10 of the Lund recommendations on the effective participation of minorities in public life, regulates that: “The geographic boundaries of electoral districts should facilitate the equitable representation of national minorities.” The minority representation and the position of ECVRD depend on the district magnitude, the method employed for drawing the boundaries of the electoral districts and the existence of an independent body, such as a standing professional electoral commission, responsible to determine them.

In Montenegro, the Law on the Election of Council Members and Members of Parliament establishes the borders of electoral units and the State electoral commission has no authority concerning determination of electoral units’ borders. According to this Law, during the parliamentary elections Montenegro is divided in two electoral units. In one of the electoral units the Albanian minority is in majority population and it gives five mandates in Parliament. The rest of Montenegro is the second electoral unit with 76 mandates. Special polling stations (on the territory where Albanians form majority population) provide preference treatment in the electoral process only for Albanians. This was enabled by a special decision of the Parliament in accordance with the Law on the Election (Article 12, paragraph 3). The existence of these two electoral units helps Albanians, but this legislative solution does not help the other communities, especially as they live dispersed throughout the State. On the local level, during the election of local governance representatives, each municipality is a unique electoral unit (Article 12 paragraph 1).

One may notice that the regulation concerning the electoral units does not bring any particular advantages or disadvantages for Roma and Egyptians. Bigger problem for organizing them is the fact that this minority is not present in significant number in any local community. The census of the population shows that members of Roma minority live scattered in ten municipalities where they are participating with about 0.5% in population’s composition. Although these are mostly neighbouring municipalities, the redrafting of borders would not bring dramatic improvements. An exception is the capital Podgorica where there are 0.83% Roma according to the results of the 2003 census.

In Macedonia, the Law on territorial organization⁴⁶ determined the existence of 83 municipalities and the town of Skopje as a separate unit. This Law arose huge political criticism, as it was considered that so called politi-

46 Official Gazete No 55/04.

cal geometry permitted the Albanian community to group itself in municipalities where it would be able to form a majority or more than 20% - that meant a higher representation of this community within the municipality councils and employment of the rights concerning the use of the language. At the municipality level the proportion is not the same as at the national level. Depending on the region in question, the minorities are differently dispersed from one municipality to another, although they are not equally/proportionally represented in municipality councils. For example, the Roma population has more than 5% in Kochani, Vinica, Prilep, Kicevo and Pehchevo.

The Electoral Code determines the borders of the electoral units in case of Presidential and Parliamentary elections. In the case of elections on local level, this is regulated by the Law on territorial organization and local self-governance. Thus, the borders are decided through law, directly by the Assembly, through qualified majority and, also, double majority. In this way, the will of the minorities has been observed. Eventual changes of the municipal borders would probably not have a dramatic effect on the number of Roma who participate, although it would, understandably, depend on the exact municipal map which is offered.

Again, it is difficult to draw an overall conclusion. In Serbia, where a single constituency has been introduced, the electoral borders concern solely the representation on local level. In Montenegro and Macedonia, this issue has received a due attention, in order to accommodate the Albanian minority representation. Otherwise, it does not have a decisive influence, as most of the ECVRD live geographically dispersed. Yet, one may expect that a single constituency may improve at least the position of Roma in Macedonia, as they live dispersed throughout the State. This would not be the case with Ashkali or Egyptians who live concentrated in Polog and Ohrid region, respectively.

8. Fair conduct of elections

The fair conduct of elections is among the most delicate questions in the States of the Western Balkans. Its importance goes beyond the public participation of ECVRD. We will illustrate here the situation in two cases; Montenegro, where ECVRD have no political parties or representatives on their own, and Macedonia, where the electoral system has been, somewhat hastily, praised for its insistence on inclusiveness. It will be obvious, at the end,

that even in the later case, the results achieved have not done sufficiently for the ECVRD.

In Montenegro, all electoral bodies have a ‘permanent’ composition of appointed members and an ‘extended’ composition that includes authorized representatives of all registered candidate lists, who serve on a temporary basis. The State Election Commission’s permanent members are appointed by the Parliament, while Municipal Election Commissions are appointed by the municipal assemblies.⁴⁷ The Law on the Election of Council Members and Members of Parliament provides that the two opposition parties that won the largest number of votes in the respective assemblies during the last elections are entitled to appoint one permanent member each to the three levels of the election administration. While the right of opposition parties to appoint election commissions promotes pluralism, transparency and inclusiveness, the numerical strength of the political majority allows it to control the functioning of the SEC and MECs until the extended composition is appointed.⁴⁸ Still, the mission of the OSCE responsible for the election monitoring announced after the last elections held on March 29th 2009 that the parliamentary elections met almost all standards of OSCE and Council of Europe, although this process has once again highlighted the need for further democratic development.⁴⁹

Having in mind that Roma and Egyptians parties and candidates normally do not participate in the elections, it is clear that the fair nature of electoral bodies has little influence over them. Still, having in mind that the commissions are normally dominated by the big political parties, the changes which advantage the smaller political entities may benefit them (under condition that Roma and Egyptians begin actively participating in the elections, having their list of candidates etc).

The protection of the voting rights, provided by the election commissions (State Electoral Commission and Municipal Election Commissions), is under supervision of the Constitutional Court of Montenegro and the competent courts.⁵⁰ The Law on the Election of Council Members and Members of Parliament does not comprehensively regulate the procedures for all types of election-related complaints, including disputes regarding election administration, campaigning, media coverage, and campaign financing and expenditures.⁵¹ The Law does not provide adequate guarantees of the

⁴⁷ Article 25 and 30, the Law on the Election of Councillors and Members of Parliament.

⁴⁸ Article 31.

⁴⁹ ODIHR election observation mission report <http://www.osce.org/odihr-elections/documents.htm>

⁵⁰ Article 8.

⁵¹ There are some articles in the law, Section 9 provisions of protection, article 106- 111.

due process in the complaint process, and does not ensure open complaint hearings, opportunity for all sides to present cases, and right to full legal reasoning of decisions could be further improved. Some deadlines in the law for consideration of complaints and submission of appeals are too short to guarantee due process (24 hour and 48 hours).⁵² There is no legal department responsible for providing opinions and interpretations of the Election Law and advising on complaints in the State Election Commission.⁵³ The appeals against decisions of State Election Commission are resolved by the Constitutional Court.⁵⁴

In addition, there are, of course, the courts which protect the rights and freedoms of all citizens without discrimination,⁵⁵ as well as the Ombudsman, established in 2003, who has two assistants, one of which deals with the protection of minority rights. The Ombudsman has no specific authority in terms of elections, but he does have jurisdiction in cases where the institutions of the State authorities violated the human rights and freedoms.

Ministry of Human and Minority Rights is the main administrative institution that takes care of the realization of the rights of minorities. The Ministry has no special influence in the elections and election law. One could not tell that the Government and its authorities have developed forms of consultation with the Councils of national minorities (see above), although the Law on minority rights and freedoms prescribed for it such role. Council of the Roma has competencies in the fields of representation, education, language and script usage, preservation and development of culture and information in the Roma language. Yet, it does not have enough developed expertise and institutional capacity to effectively represent the interests of their communities, as they have effectively limited political power and influence. Its influence on electoral/political rights issues almost absent. A stronger insistence by the Ombudsman with regard to the Roma and Egyptian political rights, as well as the enhancing of the capacity of the Roma Council would be beneficial.

Even if Roma and Ashkali do not have political parties and do not candidate on other electoral lists, their rights as voters should receive an adequate protection. In the future, if more of them happen to be on the candidates' lists, the rectification of the above shortcomings would be beneficial for them. One may keep in mind though, that the slow and inefficient justice is endemic to all legal systems in the Western Balkans. The shortcomings of

52 Article 109.

53 Reports of OSCE Mission in Montenegro.

54 Article 149, item 7 of Constitution, and Article 110, paragraph 2 of Law.

55 Constitutional Article 17

the electoral disputes form part of this broader picture and one should not be overoptimistic with regard to the developments in the near future.

In Macedonia, the electoral process is coordinated by the State and Municipal Electoral Commissions.⁵⁶ The election of the members of the State Electoral Commission is done by the Assembly in accordance to the principle of appropriate and equal representation. However, there are not representatives of Roma, Egyptians or Ashkali in this body. The election of the members of the Municipal Electoral Commission and the election committees, in the municipalities inhabited by at least 20% of citizens who belong to the other communities, is also done in accordance to the principle of appropriate and equal representation of all communities. The members of the Municipal Electoral Commission are chosen through the method of incidental choice. The members of the electoral organs should consist of at least 30% women.

During the elections, in the municipalities where at least 20% of the citizens speak an official language which is different of Macedonian, the Municipal Electoral Commission and electoral committees officially use the Macedonian language and its alphabet, as well as the language and alphabet spoken by the citizens of the community which forms at least 20% of the inhabitants of that municipality. During the Parliamentary and local elections, the same language solution applies to the application of the MP's or council candidate list or the list of the candidates for a mayor is done in the language and alphabet used by the citizens in that unit of self-governance. The same applies to the voting instruction and the voting ballot. It is obvious that the above mentioned regulation provides advantages for the minority population.

The procedure for protection of the electoral right is an urgent one. The applicant of the list or the elector can bring a complaint to the State Electoral Commission or, during the local elections, to the Municipality Electoral Commission. In case that he is not content with the decision of the commission, he may bring a complaint to the Administrative court.⁵⁷ In all of these bodies, the members usually belong to the Macedonian and Albanian ethnicity.

In addition, one may add the overall changes that the Ohrid Framework Agreement introduced within the scope of work of the main institutions for human rights protection and their composition and procedures. It has provided an extension of powers of the Ombudsman, including the area

56 Article 17 Election Code published in Official Gazette No 40/06

57 According to the articles 147-150 of the Electoral law and article 38 of the Amendment Law no 136/08.

of rights of members of the communities.⁵⁸ Equally, an establishment of a Committee Inter-Community Relations in the Assembly was ensured with a Roma seat in it.⁵⁹ Mandatory representation of communities in the National Court Council was also ensured,⁶⁰ as well as a mandatory representation of communities in the Constitutional Court.⁶¹ There are no Roma, Ashkali or Egyptians in these institutions.

In addition, according to the Law on prevention and protection of discrimination, a Commission for protection from discrimination has been formed. Together with the Ombudsman, it provides a separate channel for complaints on ethnic discrimination. The existing possibilities for complaint have not been adequately used by the observed communities. Many of its members have been omitted from the voting lists, due to the lack of personal documents, or for other reasons. The cases of buying votes may also be a matter of concern for the electoral commissions, apart from the regular criminal court ruling. The difficulties with the complaint procedure during the election form just a part of the complex issue of the inefficient justice system in the country.

It is an overall conclusion that there is space for an improvement of the fair conduct of elections. This is especially true when it comes to the right of fair hearing and the complaint procedures. As the adjudicatory procedures concerning the electoral system form part of the (severely criticized!) general justice system in the States, one may not be overoptimistic with regard to the outcome in the close future.

9. Internally Displaced Persons (IDPs) and Refugees

This is the most pressing issue with regard to the position of the ECVRD and the human rights, in general. If the States of the Western Balkans have more or less accommodated their electoral systems to promote inclusiveness and representation, with regard to this question they show a very different face.

In Montenegro, it is estimated that there are about 22 000 internally displaced persons and refugees.⁶² According to the official data of the High Commissioner for Refugees and Displaced Persons in the Government of

58 Amendment XI of the Constitution.

59 Amendment XII of the Constitution.

60 Amendment XIV of the Constitution.

61 Amendment XV of the Constitution.

62 The Commissioner for Refugees and Displaced Persons of the Government of Montenegro- the data for 2009.

Montenegro, there are 4 316 Roma, Ashkali and Egyptians among internally displaced persons from Kosovo who have come in Montenegro since 1999. Refugees and displaced persons do not have voting right. Every citizen with Montenegrin citizenship upon reaching 18 years of age acquires the right to vote. Besides, he must be minimum two year resident in a particular municipality where he/she votes.⁶³ The two-year residency requirement is not consistent with the principle of universal suffrage and the international instruments.⁶⁴ The Law on citizenship (adopted on 2008) regulates the obtaining of the Montenegrin citizenship. Conditions for the acquisition of a citizenship are not considered to be problematic from the standpoint of international human rights standards. Apart from this, the Law predicts special conveniences for displaced persons from ex Yugoslav republics (including Roma, Ashkali and Egyptians), for obtaining Montenegrin citizenship. International agencies have repeatedly called on Montenegro to facilitate obtaining citizenship for displaced persons and refugees. The Law is restrictive concerning double citizenship because it practically forbids it. Some Roma and Egyptians do not have any identification documents, and they face a particular problem. These persons cannot practically exercise their human rights. There is no official estimate of how many of these persons exist in Montenegro.

Particular care should be provided for the members of these communities with personal documents in order to facilitate their exercise of voting and political rights. The facilitating of obtaining citizenship is also recommendable. Hence, the State administration should begin ground work in order to obtain information on the exact number of these people.

In Macedonia, this is also the most serious issue considering the political rights of Roma, Ashkali and Egyptians, as numerous analyses suggest that many members of their communities live in Macedonia without documents for personal identification. The active or passive electoral right has not been envisaged for any category of foreigners – migrants, refugees nor persons without citizenship. This rule applies to both national and local levels. The Macedonian citizens who temporarily work or reside abroad posses a right to vote within the Macedonian diplomatic and consular offices.⁶⁵

Numerous analyses show that the Macedonian State has not managed the issue of stateless Roma, Egyptians and Ashkali. It is still unclear how many

63 Article 45 of Constitution.

64 European Commission for Democracy through Law (Venice Commission), “Code of Good Practice in Electoral Matters”, see Guideline I, “Principles of Europe’s electoral heritage.”

65 Article 2, Law on Changing of the Election Code No 136/08.

of them do not possess all or some of the personal identification documents. What is worse, many of them have not obtained citizenship, which is the necessary precondition for acquiring voting rights. The case is especially delicate for those whose status is not regulated, due to the resolution of former Yugoslavia.⁶⁶ It should be noted that this is the most serious issue regarding the political rights of Roma, Ashkalia and Egyptians and it needs an urgent action.

Elsewhere, this issue is also not settled. With regard to Kosovo, Visoka informs that: “As part of the international community pressure to foster and facilitate the minority inclusion, on May 2006, the Prime Minister Office of Kosovo instructed PISG and municipalities “to ensure that pending registration requests for Roma, Ashkalia, and Egyptian are completed in the next six month. No late fees for these administrative services shall apply to these groups”....” The UNMIK estimates that in Kosovo live around 39,000 Roma, Ashkalia and Egyptian communities’ members and according to UNHCR, 20 – 40 % of them are not registered. This situation has produced many obstacles, such as the risk of becoming stateless. Due to the quite rigid administrative procedures, the process of Civil Registration gets more complicated. This situation discourages Roma, Ashkalia and Egyptian communities from applying for civil documents. However, the program led by CRPK and RADC remains a solid hope in solving this problem. PISG should develop strategies addressing the issue of Roma, Ashkalia and Egyptians civil registration. With a serious commitment of the local and national government and mobilization of the public administration, the issue would be solved.”⁶⁷

One can easily see that this is an endemic issue for the States concerned. As the small ethnic communities have suffered a disparate effect from the failure to settle this issue, this is a good example of a question where a strong political representation of their communities may have been of major importance. The described situation is not everywhere a result of a political will to discriminate them, but a consequence of the large political upheavals which were happening in the region since the 90’s. The persistence of this problem for several years is due to the shortcomings of the State and local administrations and the lack of political interest to engage in settling this issue.

66 Grizo Melina, “Roma and citizenship in Macedonia”, conference entitled: “Citizenship theories and practices in Former Yugoslav States”, organized by CITSEE, Faculty of Law, University of Edinburgh, UK, June 2010.

67 Visoka, op. cit, p. 168.

10. The procedure of changing the electoral laws

With regard to elections and participation of ethnic communities in the public life generally, it is important to examine the constitutional and legal safeguards - whether the laws can be easily changed or higher thresholds and/or the consent of the ethnic communities are required. The safeguards may include a role for the courts, ombudsman for national minorities or consultative bodies on minority issues. As this question has been elaborated above, within the framework of the electoral systems of the States, we may refer here shortly on the case of Montenegro.

In Montenegro, the laws regulating the electoral system are not easy to change and the approval of national minorities having representatives in Parliament is "de facto" very important for their adoption. The Constitution stipulates that the Parliament decides with 2/3 majority vote of all deputies on laws regulating the electoral system.⁶⁸ This constitutional provision has already led to problems in practice because the new Law on the Election of Council Members and Members of Parliament cannot be provided with the necessary majority in the Parliament for nearly three years. The laws governing the actualization of acquired minority rights are approved in Parliament which decides on the first ballot with 2/3 of majority or at the second ballot a majority of all deputies at the earliest after three months. As they have not been represented so far, in the future, if Roma and Egyptians obtain their guaranteed seat in the Parliament, have some political parties or offer their candidates, it would benefit them to change the rules for changes of electoral laws, so that the formula takes into account their voice with regard to the changes of electoral legislation.

It may be concluded that the ECVRD most frequently enjoy some minority rights, although their ability to influence the electoral legislation remains limited. One may say that the possibility to influence the electoral legislation belongs to the larger minorities, especially having in mind that they have their proper political parties represented in the Parliament. This aspect of the electoral model goes hand in hand with the adequate representation in the Parliament and a local level and a range of bodies who actively guarantee for the political of Roma, Ashkali and Egyptians.

68 Article 91.

11. The media coverage during elections

Concerning the media coverage during elections, it is important to see whether there are restrictions for national minorities to gain access to the media, such as the language and other obstacles. According to article 9 of the Framework Convention for the Protection of National Minorities:

“1.The Parties undertake to recognise that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority language, without interference by public authorities and regardless of frontiers. The Parties shall ensure, within the framework of their legal systems, that persons belonging to a national minority are not discriminated against in their access to the media.

2.Paragraph 1 shall not prevent Parties from requiring the licensing, without discrimination and based on objective criteria, of sound radio and television broadcasting, or cinema enterprises.

3.The Parties shall not hinder the creation and the use of printed media by persons belonging to national minorities. In the legal framework of sound radio and television broadcasting, they shall ensure, as far as possible, and taking into account the provisions of paragraph 1, that persons belonging to national minorities are granted the possibility of creating and using their own media.

4.In the framework of their legal systems, the Parties shall adopt adequate measures in order to facilitate access to the media for persons belonging to national minorities and in order to promote tolerance and permit cultural pluralism.”

In Macedonia, article 16 of the Constitution guarantees the freedom of personal conviction, conscience, thought and public expression. Freedom of speech, public address, public information and free establishment of public information institutions is guaranteed, as well as the free access to information and freedom of reception and transmission of information. The right to respond in the mass media is guaranteed, as well as the right to a correction in the mass media. The right to protect a source of information in the mass media is guaranteed. Censorship is prohibited. There is no limitation with regard to the use of the minority languages during election campaign like meetings, TV spots, TV or radio self- presentation, internet sites, blogs, print propaganda etc. There are not obstacles for access to both paid and unpaid media programs.

In Montenegro, the right to being informed, without discrimination, is guaranteed by the Constitution and laws in line with international standards on human rights and freedoms.⁶⁹

Article 58 of the Law on the Election of Council Members and Members of Parliament stipulates that “all submitters of electoral lists and candidates on those lists shall be entitled, during the election campaign, under the same conditions, to organize conferences and other public gatherings that present and promote the electoral programs, electoral list and the candidates on those lists, in accordance with the regulations on public order and peace”.

Article 59 of the Law stipulated the obligation of Public Media (whose founders are the State or municipality), in compliance with their financial and technical capabilities, during the election campaign to inform under the same conditions about the activities of all applicants from the electoral list from all their conferences and other public meetings organized. Also, they are required to set the agreement with the applicants from the electoral lists with regards to the manner and conditions of preparing the report from public assembly, as well as to prescribe deadlines to applicants by which they should inform the media about the public assembly.

The obligations of Radio Television of Montenegro (the national public service) are prescribed with the provisions of Articles 51 and 53, according to which this Television is obliged throughout the election campaign, in the politically informative program whose availability and visibility is provided across the entire territory of Montenegro, to ensure the in same duration and same time the presentation of submitters of electoral lists, as well as presentation and reasoning of the electoral program. During the election campaign, this television is bound to announce promotional meetings of submitters of electoral lists for free on such terms and conditions to ensure equal treatment.

In accordance with the provisions of Article 64 of the Law, private media are obliged to adopt a code of conduct in order to achieve a fair and balanced editorial policy, and concurrent i.e. equal representation of applicants and candidates from electoral lists.

The minorities have right (Article 12 of Law on Minority Rights and Freedoms and provisions of Media laws) to establish the media who broadcast in minority languages. For example there are over ten media (Radio, TV and press) who broadcast on Albanian language.⁷⁰ The Government of Montenegro provides financial support these media in accordance with the

⁶⁹ Art 49 and 79 of Constitution.

⁷⁰ The first report of Montenegro on the Implementation of the Framework Convention on Minorities.

possibilities. While certainly there is lot of space to promote these rights in practice.

No political party of Roma or Egyptians in Montenegro has not yet established, or participated in the elections, and there was no their representatives on the lists of existing parties so that there is no information as to how are these legal norms practically implemented in relation to this minority. The position of the Albanian (and other minorities) and the Roma minority in Montenegro cannot be compared.

In Albania, during the 2005 elections the State Election Commission has “cooperated closely with the National Council of Radio and Television for the identification of the location of the broadcasting operators transmitting in the areas where minorities live... There were also Radio information spot in the Greek, Macedonian and Serbian – Montenegrin languages.”⁷¹ Yet, the ECVRD were omitted from this process.

On the contrary, with regard to Kosovo, Visoka informs “the public participation was fostered by having more Ashkali, Egyptians and especially Roma appearance in the media, radio, public TVs, newspapers, etc. In some cases they have established their local radio stations in their language, TV shows in national TV broadcaster and have also developed several publications, including awareness-raising campaigns.⁷²

One may conclude, that the regulation of this particular issue is developing. A further research should be conducted in order to obtain an insight into the regulation of all five States.

12. Conclusions

One obvious conclusion which derives from this analysis is the fact that all of the States in question, apart from Albania, have an electoral legislation which is to some extent accommodated to the participation of minorities. In this process, in the States where large minorities exist (such as the Albanian minority in Macedonia and Montenegro) those are normally in sharp contrast with the much weaker position of the other communities, such as the Roma, Ashkali and Egyptians. With regard to the rights of the later, the Kosovar Constitution is the most advanced – through an arrangement of guaranteed seats in the Assembly, it ensures the participation of these communities. The others have attempted to introduce lower thresh-

71 Sinani, op. cit. p. 209.

72 Visoka, op. cit. p. 169.

olds for a Parliamentary seat, a double majority or a single constituency which enhances the proportional representation. The legal regulation in several States also permits the existence of Minority Councils, as vehicles of public participation. In the case of Roma minority, these have been, so far, a disappointment. Still, overall speaking, despite of all of the shortcomings, one may praise the efforts of some of these developing democracies to accommodate the rights of small communities.

However, when it comes to the further participation of these communities, especially with regard to the participation in the executive power, the situation is far from satisfactory. Namely, even in Macedonia, where the Ohrid Framework Agreement from 2001 guarantees a proportional representation in the public administration of the members of the Albanian minority, this does not apply to any of the ethnic groups whose legal status has been analyzed in this work.

When it comes to the rights of Roma, Ashkali and Egyptians as voters, the Constitutional and legal framework is overall not unfriendly. On the contrary, the Constitutions follow the major international legal instruments and they grant a full range of rights – both to the minorities in general, as well as fundamental political and other rights. Normally, even the politically sensitive question of founding ethnic political parties does not pose an obstacle.

Yet, having said that, one may notice that once the legally guaranteed rights of the members of these communities have been violated, the justice is not efficient – the practice of buying votes or the omissions from the lists of electoral evidence are only the most frequent complaints. The courts and other bodies responsible for the electoral issues or aspects of minority protection seem unable to apply the laws. One may add that, due to weak or nonexistent political parties of these communities, it is the State bodies who should take the initiative against these flagrant breaks of the political rights of the members of these communities.

It seems that although the legal systems in these States have numerous shortcomings (such as a low level of implementation of the laws, weak judiciary), even when legal mechanisms exist, the members of Roma, Ashkali and Egyptians communities are slow to take advantage of them. Thus, they accept the practice of buying votes which is directly against their interests, their Minority Councils do not advance legislative proposals and so on. It seems that the fields where they are truly discriminated are the economy or education which results in their undeveloped political culture. Having said that, we are still strongly supporting further research which needs to be un-

dertaken in order to provide more data on the treatment that these minorities receive in courts, in the bodies of public administration, during the compilation of the electoral evidence lists and so on.

By far the most pressing legal issue is the regulation of the position of the refugees and the internally displaced persons. Throughout the region, there is also an unknown number of persons without citizenship, as well as persons who lack some of the personal documents – a position which directly influences their electoral and other political rights.

The situation in Albania largely differs from that in the other States. Albania is still reluctant to take steps in the direction of the changes of the electoral model to accommodate the minorities. There, our observed communities have not founded any political party. They do not even exist in the official statistics of the State. Still, Albania is a State which has signed and ratified numerous international instruments regarding the minority rights. One may hope that under the influence of the international monitoring bodies and other international organizations, there will be positive developments.

One of the conclusions deriving from this work is that despite the very limited achievements, the legal systems concerning the political participation of the ECVRD are somewhat of “a site under construction”. Pressured by the desire to join the Western democracies within NATO or EU, as well as through the influence of various human rights bodies monitoring the developments, these States may in future accommodate further toward a successful outcomes. Their Constitutions and legal frameworks have survived enormous changes within the last decade or two. It is possible that further development may happen in a steady and more organized way.

At the end, we consider there would not be much use of providing recommendations concerning the conditions in five different States. For this reasons, we may rather attempt to classify the developments.

Advantages:

Virtually all of the States in question have signed and ratified the major international law documents concerning the minorities and their political rights.

Generally, there are solid legal frameworks on fundamental political rights, including the foundation of political parties on ethnic basis.

In most of the States, there is a legislative framework concerning antidiscrimination, as well as legislation on minority rights.

The electoral models try to accommodate to minorities (apart from Alba-

nia), although guaranteed seats need to be envisaged in Montenegro, Macedonia, Albania and Serbia.

In most of the States, there are different bodies responsible for the advancement of human rights (such as ombudsman, commissions etc).

Further challenges:

Non-existence of reliable statistics (especially in Albania). Where statistics do exist, Roma, Egyptians and Ashkali do not always form separate categories. Gathering of reliable statistics for all of the States in question is necessary. In future, all of the official State documents should clearly refer to these separate categories, instead of assimilating them as Roma.

The acronym RAE which is practical for use, as these communities share many common problems, should be excluded from all official or legal documents, as it implies a creation of a new ethnicity.

A further research and action is necessary with regard to the political rights in the cases of multiple discrimination – regulating the status of IDP, refugees, persons without citizenship and other personal documents (especially women).

The States should compile AND implement strategies to gradually remedy the issue of the insufficient level of representation of Roma, Ashkali and Egyptians in the executive power.

Surprisingly, it seems that the National Minorities Councils also belong to the category of further challenges. So far, this mechanism has been unable to serve as vehicles of change. A further research and modification of their role is necessary.

The inability of the judicial system to cope with the deplorable practice of buying votes should be remedied, although this issue forms a part of the overall inefficiency of the justice systems (courts, bodies responsible for electoral disputes).

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Electoral Behavior of Ethnic Communities Vulnerable to Racial Discrimination in the countries of the Western Balkans

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Introduction

The general situation of Ethnic Communities Vulnerable to Racial Discrimination (ECVRD) in the countries of the Western Balkans covered by this project (Albania, Kosovo, Macedonia and Montenegro) is marked with a series of similar problems. To some extent, those problems are immanent to the wider area of Eastern Europe in general. In that regard, it is justified to claim that ECVRD are subjected to various forms of discrimination both institutionally and socially induced. The main types of problems facing ECVRD can be categorized in four basic categories: education, employment, housing and health protection. Also, there is a problem with identification of the exact number of members of these communities, similar as in the most of the countries in Eastern Europe, due to long-term discrimination and the phenomenon of social mimicry as its direct outcome. Additional issues, specific for the region of Western Balkans, are related to the status of internally displaced persons and readmission of refugees. Aside these major categories there are numerous specific and idiosyncratic forms of discrimination characteristic for specific localities and circumstances.

The social exclusion and the vulnerability to racial discrimination can hamper ethnic communities' perspectives of full political integration in the society. The exposure to prejudices and stereotypes damage the chances for the communities' political participation; deprivation off basic goods can lead the members of these communities to trading their votes for a shamefully low price; the lack of suitable human resources can lead to the rise of a communal political elite with questionable interests and ideals and finally there is always the risk of being victimized by the mercilessness of the struggle for political power. Additionally, the marginal status of the socially excluded communities is also accompanied by sheer absence of the institutions of the state among them.

This paper analyzes the electoral behavior of ECVRD, as one of the major factors that determines their political representation and participation in the public life in each of the countries. First, it identifies the ECVRD in the countries of the region and assesses their general position in the regional and the local discourse(s). Second, it analyzes models of recognition of the existing ECVRD in countries of the Western Balkans covered by the project. Third, it examines the existing models of inclusion of ECVRD in

electoral processes and subsequent political representation. Finally, it gives summarized presentation of findings and recommendations.

This paper is to a great extent based on the research papers submitted by the local experts – David Pupovac for Serbia and Anastas Vangeli for Macedonia. Therefore, they are credited as co-authors of the paper.

Who Are the ECVRD in the region of Western Balkans?

The exact number of members of ECVRD in the countries of the Western Balkans is not known. There are several reasons for this situation. First, there are significant differences in the classifications used in national censuses in regard to the ethnic composition of the population in different countries of the Western Balkans. While in some of the countries (i.e. Serbia, Kosovo) this classification reflects more precisely the differences between various ECVRD, in other countries (i.e. Macedonia) these differences are in some manner “blurred” by the classification that recognizes only Roma community (while other ECVRD, as well as some non-ECVRD minority communities are classified as “others”), while there are also countries (Albania) that still haven’t included the category of ethnicity in their official population statistics. Second, there is a phenomenon of ethnic mimicry – members of ECVRD are reluctant to declare their ethnic origin (mainly because of various types of discrimination), but rather embrace some more socially acceptable ethnic identity (of a larger and better socially established ECVRD or non-ECVRD ethnic community). Third, the break-up of former Yugoslavia left many ECVRD members without a regulated citizenship status in the newly independent states. Forth, post-Yugoslav armed conflicts left many members of ECVRD as internally displaced persons and refugees, but also (in case of Kosovo) hampered a series of regular population censuses.

Even though their official numbers are highly disputable, we can still identify main ECVRD in the countries of Western Balkans: Roma, the Egyptians and the Ashkali.

Roma

The largest ECVRD in the region of Western Balkans are the Roma. The Roma are transnational people or group of peoples that comprises a significant portion of the population of the whole region of Central, Eastern and Southeast Europe, and being recent migrants to Western Europe and

North America. The estimations about their total number in the World vary between only a few and more than ten million Roma worldwide. While the criteria for their definition are vague with regards to the different language different Roma groups speak across different regions, and the different cultural traits among them, the definition of Roma has been somewhat auto-referential. The main determinant of a person being categorized as Roma is usually based on their ethnic self-identification as one, although non-Roma people, especially members of certain ECRVD are often perceived as Roma due to the lack of public familiarity with the distinction between the different ethnicities.

In **Macedonia**¹, the census of 2002 has come up with a figure of more than 52,000 citizens who have been registered as Roma, which comprises more than two and a half percent of the total population of the country. Nevertheless, this figure is suspected to be flawed. First of all, due to the problems with obtaining their identification documents, in the first place their citizenship and residence certificates, many Roma (an estimate of 100,000 – 150,000, which is much more than the official figure) have been left out of official statistics. If this estimate is proven true, it could make Roma even more significant political factor occupying about ten percent of the total population of the country. Secondly, at present, many Egyptians and Ashkali, claim to have been unjustly imposed the Roma identity which was onerous for the free expression of their personal identification. If these assumptions are proven true, then the total number of Roma population might not be dramatically increased; yet, it would rather mean that Macedonia has a large number of diverse ECVRD.

Roma are territorially dispersed throughout the whole territory of the Republic of Macedonia, although several areas of dominant Roma concentration can be identified. The paradigmatic example for their territorial concentration is the municipality of Shuto Orizari, the largest Roma-dominated municipality in Europe, in which Roma comprise more than two thirds of the population.

Yet, the Roma are in general one of the most poverty-stricken and destitute categories in the country, occupying the bottom of the social hierarchy. Many of them live in precarious conditions, dwell in slum housings and to a great extent are excluded from the public life. The insufficient access to health care, education and other public services, make Roma populated areas cultural ghettos in which the rule of law and the authority of state institutions are nonexistent. In this respect, the perspectives of Roma for

¹ The section on Macedonia is an extract from the wider report written by the local expert Anatas Vangeli.

finding a job and having a decent life are against the odds, and therefore many Roma are forced into illegal and semi-legal activities or migration abroad as their last resorts for improving the utterly deteriorated and undignified living conditions. For instance, one of the most recent trends in the Republic of Macedonia is the desperate attempt primarily of Roma to seek asylum in the countries of Western Europe. Especially exacerbated is the condition of Roma women and children; due to the lack of sexual education and family planning assistance, Roma families reproduce at a very high rate and are not being able to provide descent conditions for their posterity. The situation of thousands of Roma, as it will be later further elaborated, is ultimately compromised by being apatride (the problem of being stateless or not in a possession of citizenship) due to the incapacity to provide proofs of residency or other evidences of citizenship.

Roma have been victims of structural discrimination years for a long period of time. The general stereotype of them has been based on their physical looks, and associating them with negative traits of human behavior. For many Roma, it is virtually impossible to find a job (it is estimated that the unemployment level among Roma is at least twice the national average, meaning more than 70%). The fact that many of the Roma live in conditions that are below any dignity and that they have lack of education are usually prescribed to their lazy nature and limited capacity, rather than on the decades of systematic isolation. While there have been attempts to alter this image of the Roma through politically correct cultural products², the negative image has persisted and on top of that internalized by many Roma individuals themselves, who after emancipating from the Roma community attempt to conceal their Roma origin³.

Roma's ultimately unfavorable social position in the country has received a special attention by the Government of the Republic of Macedonia, as the Ministry of Labor and Social Policy has brought a national Strategy on the Roma of the Republic of Macedonia in 2005. The Roma population in the Republic of Macedonia has also received a lot of attention and assistance in various spheres of their public life through the civil society subjects and international organizations, which have supported and implemented projects as part of the general tendency international Decade of the Roma Inclusion.

Yet, it should be stressed that, as the Ethnobarometer survey stresses, not all of the Roma share the same social position. Although narrow in scope, Roma

2 The paradigmatic case of this is the novel "Beloto Ciganche" by Videc Podgorec, in which a non-Roma kid is raised by a Roma community which has passed on him a lot of virtues.

3 See Azbija Memedova et al., "Roma's Identity and the Political Arena" in Roma's Identities in Southeast Europe: Macedonia (Ethnobarometer, 2005), pp. 7-18

elite have emerged in the country. The Roma elite is comprised primarily of two categories of individuals: a) businesspersons and politicians (usually men) who have managed to convert the economic into political capital and vice versa; and b) the new generations of highly educated Roma, many of them with significant international experience, who work in the civil society sector, and in particular in the sphere of human rights and Roma integration in the society.

Roma also has the largest population of all ECVRD in the Republic of **Serbia**⁴. The official census population totals for the former Yugoslavia are as follows: 72,736 (1948); 84,713 (1953); 31,073 (1961) and 169,197 (1981). According to the 1991 census, 70,126 Roma lived in Serbia proper (without provinces) while in Kosovo and Metohija there were 45,745 and in Vojvodina 24,366 Roma. The most concentrated populations of Roma in Central Serbia are in Sothern Morava and Niš regions. In some municipalities, such as Surdulica, Bujanovac, Bojnik and Vladičin Han, they account for more than third of population. Estimates of the size of the current population vary. A survey from 2002 has shown at least 270,000 Roma living in settlements across the country. However, a commonly quoted estimate is that up to 450 -500,000 Roma live in Serbia.

On the whole, it is not clear if these figure include only Roma, or if they are referring to other ECVRD, most notably Egyptians and Ashkali. An additional problem is a conflict among some members of these three communities accusing each other of separatism or forced assimilation. Overall, despite the official recognition of the different ECVRD, there is tendency to generalize different ECVRD as Roma, which additionally fuels the conflict. There are two Romany dialects in Serbia: Gurbet and Arli. The first one is spoken largely by Orthodox Roma in central Serbia and Vojvodina and is substantively influenced by Serbian language. The second one is spoken by the Roma of Islamic religion, most of who live in Kosovo and Metohija. This dialect developed under the strong influence of Albanian and Turkish languages. The difference between the Gurbet and Arli dialects is substantial. In addition, there are smaller groups within both linguistic groups, using their particular vernacular.

The number of Roma population varies significantly in population censuses of **Montenegro**. While the census of 1981 shows 1471 members of this community (or 0.25% of the total population), the next census of 1991 shows that Roma population doubled within a period of ten years, reaching the number of 3282 members (0.53% of the total population). Contrary to this tendency, the next census of 2003 shows a decrease of this population,

⁴ The section on Serbia is an extract from the wider report written by the local expert David Pupovac

with 2601 people (0.42% of total population) identified as Roma by ethnicity. This variation of numbers illustrates the level of reliability of the official statistics in regards to the number of Roma living in Montenegro. One possible explanation for this variation is the recognition of other ECVRD (i.e. Egyptians) by the census of 2003, which were possibly listed as “Roma” during the previous censuses. However, this explanation is highly disputable, because it doesn’t take into account the influx of refugees (many of whom are members of ECVRD) from Kosovo during and after 1999, which has to result in increase of population of these communities.

The official figures are even less reliable in the cases of **Albania** and **Kosovo**. In the case of Albania, we can not even talk about an official statistic, because of the fact that the ethnicity category was not even included in population censuses. In the case of Kosovo, the last two cycles of regular population censuses were significantly distorted – in 1991 because of the boycott of the majority Albanian population and in 2001 because of the unsolved status of Kosovo. The estimated numbers of Roma populations can be only derived from the last regular censuses (cited in the case of Serbia), but they would be also very unreliable because of the mass forced migrations of population during and after the war of 1999.

Balkan Egyptians

The Egyptians are the second most numerous ECVRD in the region. They form a larger, transnational ethnic community dispersed primarily throughout the region of Southeast Europe, with the most significant communities being the ones in Kosovo, Albania, Montenegro and Macedonia. Their separate ethnic self has been gradually acknowledged during the later decades of the Yugoslav era.

Egyptian was finally introduced as an ethnic category in **Macedonia**⁵ in 1991. In the contemporary Macedonian political system, although the Egyptian identification has not been disputed and acknowledged by the institutions, Egyptians are not explicitly mentioned as constitutive people in the Constitution, but rather fall in the category of “others”, along with ethnic Croats, Montenegrins, etc.

The leaders of the Egyptian community in Macedonia estimate its size to about twenty-five thousand, which is only a small share, but for instance nominally larger number than the Vlachs, an ethnic community enjoying

⁵ The section on Macedonia is an extract from the wider report written by the local expert Anastas Vangeli

the status of a constitutive people mentioned in the Preamble of the Constitution. The official number however, has been said to be around three thousand. According to the Egyptian leaders, the biggest obstacle for the free expression of the Egyptians' ethnicity are the assimilationist attitudes of the Roma⁶ and to a lesser extent the Albanian community, which is perpetuated by the representatives of the system who consider the Egyptian identification as exotic one. Regarding the prospective census in 2011, the political party Union of Egyptians has demanded that the official census commission as well as the field working groups should include Egyptian representatives.

The key components of the emergence of the contemporary Egyptian ethnic movement have been the disassociation with the general Romani / Gypsy discourse, the construction (or the resurgence) of myths of ancient descent and myths of original remote homeland and the interactive process of Othering, in which the role of the significant Other has been played by the Roma leadership⁷. The disassociation from the general Romani discourse has been a process that has been instigated with the 1974 constitutional changes in the Socialist Federative Republic of Yugoslavia. With the provisions in the Constitution, the absolute freedom to self-definition was granted and led many people, in the first place intellectuals previously defined as Roma, to embrace an alternative, Egyptian identity⁸.

This Egyptian ethnic narrative was associated with remote historic episodes and the idea of the direct historical link between contemporary ethnic Egyptians and Ancient Egyptians who migrated to the Balkans millennia ago. This was another point of divergence from the official Roma discourse, as after the 1970s, Roma embraced the narrative of Indian origin and the idea that their remote ancestors moved to Europe during the Middle Ages. Finally, it was especially the Roma political leadership who adopted inimical and sardonic attitude towards Egyptians, accusing them of separatism and mocking on the narrative of Ancient Egyptian origin, thus assuming the role of a hostile Other against which the image of Egyptians was projected⁹. Another, less significant trait of the fortification of the Egyptian narrative was its construction as opposed to the ethnic Albanian identification.

6 One of the key aspects of the politics of Roma identity is the generalization of other ECVRD as Roma sub-categories.

7 See Trubeta, Sevasti. "Balkan Egyptians and Gypsy/Roma Discourse", *Nationalities Papers*, Vol. 33, No. 1, March 2005, pp. 71-95; Marushiaкова, Elena and Vesselin Popov. "New ethnic identities in the Balkans: the case of the Egyptians", *Philosophy and Sociology* Vol. 2, No 8, 2001, pp. 465 - 477

8 Rubin Zemon. "Balkans Egyptians. A short presentation about their history of identity building, migration waves and ethnocultural characteristics", *Balkan Ethnology* (2003), < <http://www.balkanethnology.org/files/library/Rubin/Balkans%20Egyptians-%20short%20presentation.pdf> > (accessed 29 October 2010)

9 Rubin Zemon. "Differences of prejudices and collective blames toward to the Balkan's Egyptians community and their integration in some Balkan's states", paper presented at the conference Prejudices & Stereotypes are stimulating the racial discrimination in Tirana, 24 February 2006

In Macedonia, Egyptians are territorially concentrated in the wider Ohrid region in the western part of the Republic of Macedonia. Their socio-economic status is approximate to the Roma's, as the majority of them are impoverished and deprived off some of the basic needs and social institutions, thus living in perpetual adversity. Nevertheless, unlike in the case of the Roma, there is no separate governmental act that specifically addresses the needs of the Egyptians, and the contribution of the civil society has been modest and seen exclusively in the efforts of non-governmental organizations originating from the Egyptian community. One of the main political goals of the Egyptian political parties and civil society subjects is the inclusion of the Egyptians in the Preamble of the Constitution of the Republic of Macedonia, along with the struggle to mitigate the adverse effects of social exclusion.

Unlike Roma, who were recognized in the official census right after World War II, Egyptians in **Serbia**¹⁰ were recognized for the first time in the Yugoslav census of 1991. However, due to the outbreak of conflict in the SFR Yugoslavia, the census was not fully performed and the exact population of Egyptians remains unknown. As an approximation, we can cite that at least 15,000 members of ECVRD have registered as members of a society for Yugoslavians of Egyptian descent. However, there is no reliable estimate of the population of Egyptians in Serbia. The exact size of population probably extremely exceeds the figure in the census. A sort of an indicator of the state of affairs is the recent election for National Minorities' Councils. Namely, while only 584 people declared themselves to be Egyptian in the census, the separate voter registry (used for the election) comprised 1549 voters.

In Montenegro, the Egyptian community was officially identified for the first time with the census of population held in 2003. Official results show that there are 225 members of this community, which is 0.04% of the total population. In the cases of Albania and Kosovo, the official numbers are even less reliable, for the same reasons stated in the case of Roma community. In 1993, the Association of Egyptians conducted its own census in Kosovo. According to this census there were approximately 120,000 Egyptians in Kosovo and. On the other hand, there are estimates that in the month of September 1998 there were 97,000 Roma and 41,000 Egyptians living in Kosovo. According to these sources, after June 10th 1999 62,000 Roma and 21,000 Egyptians left Kosovo.

10 The section on Serbia is an extract from the wider report written by the local expert David Pupovac

Ashkali

The Ashkali are another transnational ethnic community, inhabiting primarily Kosovo, Albania and Macedonia. As for the definition of who the Ashkali are, it varies from generalizing them as a sub-Roma or for that matter as a sub-Egyptian community, to the narratives of their distinct Persian, Latin or even Semitic origin¹¹.

In **Macedonia**¹², They are territorially concentrated in the Northwestern part of the country, in the wider Polog region and Skopje valley. Unlike the example of Kosovo, where the Ashkali community has been acknowledged and included in the mainstream political discourse, in the case of Macedonia the awareness about the existence of the Ashkali community is very limited. Even though the Macedonian official attitude is that the institutions are inclusive and acknowledge every self-identification expressed by the citizens, no significant references to the Ashkali community have been met in the official documentation.

The Ashkali share the same fate of social exclusion as the Roma and the Egyptians. Similar to the case of the Egyptians, their distinctiveness as a separate ECVRD has not been taken in account in the development of instruments for alleviation of the adverse reality of social exclusion.

Serbian¹³ Ashkali are also culturally very similar to Egyptians in that they share Albanian language and are predominantly Muslim. There is a sort of contest between these two minorities over potential members. Correspondingly to Egyptians, the number of registered voters for the election of the Ashkali National Minority Council exceeded the number Ashkali in the census – 1148 voters. The members of Ashkali NGOs claim that the number of Ashkali surpasses 50,000. Nevertheless, there is no reliable way to come to an accurate estimate of the current population. The situation is similar in Albania, Montenegro and Kosovo.

Other smaller ECVRD

Beside these three major ECVRD there are several other smaller populations which are not reported in the last censuses. Firstly, there is a small population of Turkish speaking Roma who declare themselves to be Turks. There are also Bayash and Gurbeti communities in Serbia. In February 2001,

¹¹ Rubin Zemon. Balkan Egyptians and Ashkali History. Pedagogical Factsheets (Council of Europe, c. 2010)

¹² The section on Macedonia is an extract from the wider report written by the local expert Anastas Vangeli

¹³ The section on Serbia is an extract from the wider report written by the local expert David Pupovac

in Istog/Istok municipality (Kosovo), a Magjup Association was founded. The Kovachi on the other hand, are considered to be another ECVRD, identity-wise proximate to the Egyptians, who have been historically associated with blacksmithing, hence their name. There are no precise data on their size or territorial fragmentation. Similarly to the three major ECVRD there are no reliable estimates of the sizes of these communities. In general, they are lacking political organization and public in Serbia is not aware of their existence and separate identity.

Legal Recognition of the ECVRD as the main framework for their political representation

From the aspect of legal (constitutional) recognition of the ECVRD¹⁴, we can identify three general models in the region. The first model is the recognition of ethnic communities as constitutional category, which is applied in Macedonia and Kosovo. In the case of Macedonia, besides this form of formal recognition, the Constitution also lists some of the ethnic communities, while other ones are not specifically listed, but are only referred to as “others”¹⁵. In the case of Kosovo, the Constitution defines it as “a multi-ethnic society consisted of Albanian and other communities”, while it specifically lists those “other communities” in the further text¹⁶. The second model a derivation of a classic model of a nation-state with national minorities, which is applied in Albania and Serbia. The third model is a sort of a mix of two previous models – there is no reference to a dominant national/ethnic community, but only the various “nationalities” that live in the country are listed in the Constitution. This model is applied in Montenegro¹⁷. Different models of political representation of ECVRD have been developed in the countries of the refgion, based upon these Constitutional premises.

In the case of **Macedonia**¹⁸, the major overturn of the political system happened in 2001¹⁹, with the signing of the Ohrid Framework Agreement,

14 The proper legal recognition of different communities is the essential issue for the multiculturalism, and thus for the creation of inclusive institutions within the multiethnic and multicultural societies in the region.

15 From ECVRD living in Macedonia, only Roma are specifically listed in the Constitution, while other ones are referred to under “others”.

16 I.e. in the Article 64, which stipulates the distribution of guaranteed seats in the Parliament for the minority ethnic communities

17 However, none of the ECVRD is specifically listed in the Constitution of Montenegro

18 The section on Macedonia is an extract from the wider report written by the local expert Anastas Vangeli

19 See Natasha Gaber and Aneta Joveska. “Transformation in the Macedonian political system and the inclusion of ethnic groups”, South-East Europe Review, no. 1 (2009), pp. 87–98

which ended the military conflict between the Albanian guerillas and the Macedonian Security Forces (army and police). The enactment of a political-legal Ohrid Framework Agreement, has initiated Constitutional changes as well as large-scale structural reforms in the aftermath of the ethnicized military conflict. The Agreement introduced a genuine multicultural discourse with plenty of Lijphartian consociativist hallmarks²⁰.

The main purpose of the reforms instigated with the Ohrid Agreement was to help achieving a balanced representation of the ethnic communities in the institutions of the state and to grant minority rights, intended to alter the image the Macedonian institutions were trying to create in the 1990s, as Macedonia being a nation-state of the Macedonians, where a lot of other peoples reside. The new image of the country in the amended legal acts is the one of a multicultural yet unitary state, based on the principles of power sharing, equal representation and advancement of minority rights.

However, several unintended trends emerged as a consequence of the implementation of the framework agreement. First and foremost, it was the promotion of collective, strictly bound ethnic identities as the ultimate form of political belonging. This has perpetuated the ethnic cleavages in the country and contributed to the strengthening of the concept of ethnic political partisanship, and the idea of ethnic political parties as the most important agents of the ethnic identification. In fact, the Preamble of the Constitution from 2001 onwards, defines Macedonia as a country constituted by members of ethnic communities, rather than as a country constituted by its citizens.

Regarding the ECVRD, this has had an ambivalent impact: while the system has enabled the recognition of the distinctiveness and the importance of the ECVRD, at the same time it has perpetuated the same old barriers between the different ethnicities thus delimiting the capacity for full integration of the ECVRD since it does not support the premises of a civic state. Additionally, one should take into account that in line with the ethnicization of the Macedonian society as a whole, where ethnic identification has grown into the major determinant of belonging and political partisanship, this has been reflected into the process of ethnicization of various communities that had been perceived as Roma, in the sense of the development of

²⁰ For a detailed analysis of the Macedonian political model as well as of the contemporary governance issues see Daskalovski, Zidas. "Macedonia" in Nations in Transit 2010 (Freedom House, 2010)

separate identitarian narratives²¹.

The second major unintended consequence of the implementation of the Framework agreement was the emergence of a bi-cultural rather than a multicultural political order. The impression of the representatives of the ECVRD, but also the ones from the ethnic Macedonian political parties was that the power sharing in Macedonia is distributed between the two major communities (the Macedonians and the Albanians), while other communities are omitted from the picture or given just a symbolical role. Accepting this claim leads to the conclusion that through the patronage towards ethnic Albanians, the state has significantly impaired the chances for the advancement of the right to political participation of the other ethnic communities in the country, including the ECVRD. By this, ECVRD and non-Albanian communities have been de facto dispossessed of their involvement in the decision making process and assigned a role of a democratic accessory rather than an equal political actor. The bi-cultural or bi-ethnic reality in Macedonia has been reflected in the customary meetings of the leaders of the major political parties, received as the embodiment of “political dialogue” and one of the most important democratic instruments in the country. These meetings are considered an important form of democratic governance; yet, however they exclude every political subject beyond the few largest parties (usually two Macedonian and two Albanian), thus marginalizing among others, the ECVRD.

The Republic of Serbia²² adopted a new constitution on the referendum held on October 28th and 29th 2006. The 2006 Constitution defines Serbia as the “state of the Serbian people and all citizens who live in it, based on ... human and minority rights and freedoms...” (Art. 1). Therefore, Serbia is defined primarily as a state of the Serbian people. However, citizenship is sufficient for the full protection of rights guaranteed by the Constitution of the Republic of Serbia.

There are no definitions of an ethnic minority in the Constitution and none of ethnic minorities is listed in the Constitution. Although, the Constitution establishes rights of ECVRD’ firstly through the institute of citi-

21 See Memedova et al., op. cit. For the broader phenomenon of ethnicization of the Macedonian society see Holliday, Graham. “From Ethnic Privileging to Power-Sharing: Ethnic Dominance and Democracy in Macedonia”. In Sammy Smooha and Priit Jarve (eds) *The Fate of Ethnic Democracy in Post-Communist Europe* (Budapest: LGI OSI, 2004), pp. 139-165; Ljubica Spaskovska. *In Search of a Demos: Transformations of Citizenship and Belonging in the Republic of Macedonia*, CITSEE Working paper no. 10 (CITSEE : Edinburgh, 2010), <http://www.law.ed.ac.uk/file_download/series/217_insearchofademos-transformationsofcitizenshipandbelongingintherpublicofmacedonia.pdf> (accessed 29 October 2010); Anastas Vangeli, “The semantics of “national” belonging in the Republic of Macedonia”, paper presented at the 2010 CITSEE Conference “Theories and Practices of Citizenship in the New Balkan States”, Edinburgh 24-25 June 2010; Anastas Vangeli, “Theory of the Civic Identity”, *Political Thought* no. 16 (2006), pp. 39-51

22 The section on Serbia is an extract from the wider report written by the local expert David Pupovac

zenship, it also guarantees persons belonging to minorities “additional individual and collective rights”. Overall, the Constitution guarantees the following rights to minorities: The right to expression, preservation, fostering, development and public expression of national, ethnic, cultural, and religious specificities. The right to use their symbols, their languages and scripts in public, including in specific administrative proceedings.

The right to education in their own languages in the public institutions and institutions of autonomous provinces. The right to full, timely and objective information in their languages and establishment of their own media in accordance with the law (Art. 79 (1)). Therefore, the Constitution guarantees the collective minority rights. In that regard, persons belonging to national minorities have prerogatives regarding their culture, education, informing and use of language and script. Consequently, The Constitution guarantees persons belonging to national minorities the right to elect their National Councils in order to regulate the policies with regard these particular issues (Art. 75 (3)). In addition, the Constitution prohibits the encouragement to racial, ethnic, religious or other inequality, hatred or intolerance (Art. 49). Further rights and requirements with regard minorities are defined in the subordinate legal acts.

The protection of minorities is based on the Act on the Protection of Rights and Freedoms of National Minorities adopted in 2002. This the central act with regard protection of minorities. However, the number of laws relevant to the minority rights were enacted in 2009, most notably: the Anti-Discrimination Act; the Act on the National Councils of National Minorities; the Act on Political Parties; the Act Prohibiting Events of Neo-Nazi or Fascist Organizations and the Use of Neo-Nazi and Fascist Symbols and Insignia. In FR Yugoslavia, ECVRD (Roma in particular) had the status of ethnic group. However, according to the Act on the Protection of Rights and Freedoms of National Minorities all groups of citizens who consider or define themselves as peoples, national and ethnic communities, national and ethnic groups, nations and nationalities comprise national minorities.

The Act on the Protection of Rights and Freedoms of National Minorities defines a national minority in the following manner in Art. 2 (1): “a group of citizens of (...) sufficiently representative, although in a minority position on the territory (...), belonging to a group of residents having a long term and firm bond with the territory and possessing some distinctive features, such as language, culture, national or ethnic belonging, origin or religion, upon which it differs from the majority of the population,

and whose members should show their concern over preservation of their common identity, including culture, tradition, language or religion.”

The major hindrance in this definition is the linkage of national minority to citizenship. After years of conflicts on the territory of SFR Yugoslavia, Serbia has become a haven of numerous refugees and internally displaced persons. At times estimates ranged from 350,000 to 800,000 persons¹³, while the most up to date estimate of the UNHCR is that Serbia hosts 86,351 refugees and 224,881 internally displaced persons¹. Out of this number, it is estimated that 17,000 persons are de facto stateless. The issue of ‘legal invisibility’ especially affects internally displaced ECVRD. In practice, thousands of Roma are not recognized as citizens before the law and are, thus, deprived of basic human rights.

Major improvements regarding the census were adopted in the recent period as well. At the moment, the recognition of minorities in census is regulated by an amendment of law on Population, Household and Housing Census under which the answers to the questions on ethnic or linguistic affiliation in the census questionnaire will be open-ended. This avoids imposing of ethnic categories and, in particular, removes the bias of generalizing all ECVRD as Roma.

Two crucial institutions for protection of minority rights are national minority parties and the National Minorities’ Councils. The implementation of collective rights is mostly driven by the work of the National Minorities’ Councils. The National Minorities’ Councils, as institutions of cultural autonomy, are regulated by the Act on the Protection of Rights and Freedoms of National Minorities. However, the more precise regulation was specified only in August 2009, when the Act on National Councils of National Minorities was adopted. Under the Act, national councils shall participate in the procedure for selecting projects and programs in the fields of culture, education, informing and the official use of languages and scripts of national minorities by way of a public tender. A National Council may establish institutions, associations, foundations, undertakings in the fields of culture, education, information and official use of language and script and other fields of relevance to the preservation of the identity of a national minority (Art. 10 (6)). A national council may initiate (on behalf a person belong to a minority) proceedings before the Constitutional Court, Protector of Citizens, provincial and local ombudspersons and other competent authorities in the event it assesses that the rights and freedoms of persons belonging to national minorities and guaranteed by the Constitution or law have been violated (Art. 120 (12)). National councils may cooperate with international

and regional organizations, the state authorities, organizations and institutions in ethnic kin states, as well as take part in negotiations regarding bilateral agreements with ethnic kin states. According to the new Law, the National Councils will have autonomy in adopting and changing their statutes, financial plans, reports and statements, they will have their own property, they will decide on the name, symbols and seals of the respective National Council and they will adopt their own proposals on national emblems, symbols and holidays. On June 6th, 2010 three National Minority Councils of ECVRD were elected – Roma, Egyptian and Ashkali National Council.

Parties are currently run in accordance with the Act on Political Parties. This Act substituted the Act on Political Organizations, which was the primary regulation of parties until 2009. At present, all political parties must be listed in the register of political parties of the Ministry for State Administration and Local Self-Government. This required re-registration of all political parties. Under the Act, once a political party is deleted from the registry, the party ceases to exist. A national minority party is formed by 1000 adult able-bodied citizens. In comparison, regular (majority) parties need 10,00 citizens' signatures to register. The Act on Political Parties defines a national minority party as a party: "whose activities, defined by its Articles of Association, program and statute, are particularly directed at presenting and advocating the interests of a national minority and the protection and promotion of the rights of the persons belonging to that particular national minority in accordance with the Constitution, law and international standards" (Art. 3). By May 2010 72 parties were registered, out of which 42 were parties of minorities. All registered parties of ECVRD are Roma parties. In total there are five registered Roma parties: the Democratic left of Roma (Demokratska levica Roma), the Roma Democratic Party (Romska demokratska stranka), the Roma party (Romska partija), the Roma Party Unity (Romska stranka Jedinstvo), United Party of Roma (Ujedinjena partija Roma).

Additional forms of political organization devised as means of electoral competition are the lists for National Minorities' Council elections. Considering the Ashkali national minority, the lists were as follows: Ashkali for better Tomorrow (Aškalije za bolje sutra); Ashkali for Salvation, Peace and Future (Aškalije za spas, mir i budućnost), Together (Zajedno). Concerning the Egyptian national minority there were two lists: Egyptians but Together (Egipéani ali zajedno); and Future (Budućnost). Concerning the Roma national minority there were ten registered lists: Roma Party - Srđan Šajn (Romska partija Srđana Šajn), Vojvodina Roma List – Petar Nikolić

(Vojvođanska romska lista - Petar Nikolić), Roma Vote FOR Europe (Romički glas ZA Evropu), Aliance of Roma Associations of Pčinja-Jablanica district – New Roma Movement – Nenad Tairović (Savez društava Roma pčinjsko jablaničkog okruga – Novi Romski Pokret – Nenad Tairović); International Roma Union of Serbia for Better Tomorrow – Melache detarjache – Novica Mitić (Internacionalna Romska Unija za bolje sutra – Melače detarjače – Novica Mitić); Roma list for Central Serbia - Nikolić Božidar (Romska lista za Centralnu Srbiju - Nikolić Božidar); Group of citizens of Roma of Serbia – Dragiša Todorović (Grupa građana Roma Srbije – Dragiša Todorović); United Roma – Miša Stojkov, Milan Nikolić (Ujedinjeni Romi - Miša Stojkov, Milan Nikolić); Roma of Serbia – Memišević, Milanović (Romi Srbije - Memišević, Milanović); Roma for European Serbia (Romi za Evropsku Srbiju).

In the case of **Kosovo**, there is a model of guaranteed parliamentary seats for the members of non-Albanian ethnic communities. From the 20 guaranteed parliamentary seats reserved for non-Albanian representatives, 4 seats are reserved for members of ECVRD – Roma, Egyptians and Ashkali. Out of them, there is one seat guaranteed for the Roma community, one for the Egyptian community, one for the Ashkali community, while the fourth seat is awarded either to the Roma, the Ashkali or the Egyptian community with the highest overall votes²³. This model guarantees representation of ECVRD on a parliamentary level, enables them to articulate their interests through their ethnic political parties, but also increases the competence between the three ECVRD who have to compete for additional fourth parliamentary seat.

In the case of **Albania**, the pillar institution for protection of minorities is the State Committee on Minorities, established in 2004. The State Committee on Minorities is composed of (one) representative for each recognized minority living in Albania, appointed by the Government. This model of representation is problematic from a number of aspects. First, the list of recognized minorities in Albania is very restrictive²⁴, especially from the aspect of ECVRD, leaving large communities as the Egyptians without a formal recognition. Second, the fact that the members of the Committee are appointed by the Government is a problem by itself, putting in question their legitimacy and representativeness, and creating confusion about the nature of the institution – is it a representative committee of the minorities or is it an institution directly subordinated to the government. Finally, the

²³ Constitution of the Republic of Kosovo, Article 64 (Structure of the Assembly).

²⁴ Only Greeks, Macedonians and “Serbo-Montenegrins” are recognized as national minorities, while only Roma and Vlachs/Aromanians are recognized as “ethno-linguistic” minorities.

Committee is only responsible for making recommendations to the Government regarding “measures to be taken to improve the situation of persons belonging to minority groups, wherever they are located”, without any decision-making powers. Because of this reasons, the State Committee on Minorities can not be considered as an institution representing minorities (especially ECVRD) in the proper meaning of that term.

In the case of **Montenegro**, the protection of minorities is based on the Law on Minorities’ Rights and Freedoms, adopted in May 2006. This Law defines the minorities as “*... every group of citizens of the Republic, numerically smaller than the prevailing population, which has common ethnic, religious or linguistic characteristics, different from the rest of the population, is historically bound to the Republic and is motivated with desire for expression and preservation of (its) national, ethnic, cultural, linguistic and religious identity*”²⁵. Similar to the case of Serbia, the institutions with pivotal role for representation of the minorities are the Minority Councils.

ECVRD in Montenegro are represented by a single Minority council – the National Council of Roma and Egyptians. Although it was originally defined as a government institution that represents interests of Roma and Egyptians in Montenegro, in its further activities the National Council of Roma and Egyptians adopted a more inclusive position towards smaller ECVRD (as the Ashkali). Currently, the National Council of Roma and Egyptians is focused on “improvement of the position of ECVRD population”²⁶. The term ECVRD is abbreviation from “Roma, Ashkali and Egyptians” and can be considered as a synonym for ECVRD in the context of Montenegro.

Although it can be criticized as a form of racially based generalization, this model of common representation of ECVRD/ECVRD (with recognition and full respect of their ethnic and cultural differences) can be considered as more effective then the separate representation, due to the small (official) numbers of members of these communities in Montenegro.

ECVRD in electoral processes

The models of participation of ECVRD in electoral processes in each of the countries involved in the project are pre-determined by the previously described legal and institutional framework, as well as by the electoral sys-

25 Law on Minorities’ Rights and Freedoms, Article 2.

26 <http://www.romski-savjet.me/index.php>

tems of each of the countries.

Since the reforms of the political system of the SFRY in the late 1980s and the early 1990s, the Socialist Republic of **Macedonia**²⁷ and later on the independent Republic of Macedonia has been a parliamentary democracy, granting the universal suffrage in the form of single non-transferable vote to all of its citizens who are at least eighteen years of age.

There are three types of elections held in different intervals – parliamentary elections through which 123 Members of the Assembly (Sobranie, the unicameral national legislature) are elected are held every four years; local elections through which mayors and councils of the units of the local self-government are being elected are held every four years as well; and presidential elections, through which an individual President of the Republic is being elected are held every five years. With certain regulations regarding the separate types of elections, all of the registered political parties are entitled to nominating candidates and so are informal civil initiatives who are obliged to collect certain number of signatures. Every citizen who is not imprisoned can be nominated as a candidate and if successfully passes through the pre-election procedures, can run for office.

Prior to 2001, the MPs of the Republic of Macedonia have been elected via a combined electoral system, which consisted of both uninominal electoral districts (a total of 85, each providing one seat in the Assembly) and a proportional list, for which the whole state served as one electoral district, providing the 35 leftover mandates. Before 1998, Macedonia had a majoritarian model, in which all of the seats in the Assembly were distributed through the elections in 120 uninominal electoral districts.

Therefore, one of the most important aspects of the post-2001 reforms was the change of the electoral model of the country. The country adopted the so called List Proportional Representation model (List PR) according to which the political parties and coalitions present lists of candidates, and receive seats in the Assembly according to their overall score in a given electoral district. The total votes are then converted into seats by applying the d'Hondt mathematical formula, also known as the system of "highest averages". It is important to note that the Macedonian electoral code includes quotas on gender balance, according to which at least 30% of the candidates on the proposed lists by the political parties have to be of the underrepresented gender, i.e. Women. This practice has been praised as an efficient instrument of empowering women²⁸.

²⁷ The section on Macedonia is an extract from the wider report written by the local expert Anastas Vangeli

²⁸ USAID, "Macedonia's Electoral Quota System is a Model for Gender Participation", 2 July 2009, <http://www.usaid.gov/locations/europe_urasia/press/success/2009-07-15.html>

The List PR model, as Andrew Reynolds has argued, is the most advantageous electoral “[w]hen it comes to the descriptive representation of minority members in national legislatures”²⁹. According to him, the systems of List PR enable the inclusion of minority groups; enable minority representatives to be nominated by political subjects other than the minority parties; enable representatives to be elected in office in electoral districts where the representative’s ethnic community is not a majority. As it will be outlined below, this is the case with the ECVRD, as the List PR electoral model has been highly beneficial for their nominal representation in the Macedonian legislature. However, one significant shortcoming of the Macedonian version of the List PR model is that it does not outline one district unit on the territory of the country, but six different units that bring equal numbers of sea, although they are not demographically balanced. By doing so, the model restricts the capacity of ethnic communities (including the ECVRD) dispersed throughout the territory of more than one district to have their representatives elected, as their votes are essentially split up between electoral districts, making their nominal electoral power insignificant and the chances of their representatives being elected insignificant. The civic association “Most”, the most prominent electoral monitoring institution in Macedonia has therefore constantly recommended reconfiguring of the borders of the electoral districts³⁰.

Additionally, the positive effects of the List PR system in the Macedonian system are being restricted by the application of the d’Hondt calculation model, which is the most suitable for broad coalitions and robust political parties, but burdensome for small political parties, such as the political parties representing the ECVRD in Macedonia.

It is also important to note that with the latest amendments to the Code of Election, three new seats were added to the parliament reserved for the Diaspora voters. In the recent period there used to be proposals about amendments in the direction of the inclusion of reserved seats for the minority political parties, among them for some of the ECVRD; yet these proposals were never accepted by the Assembly. Having in mind that the “Macedonian Diaspora” is usually perceived as comprised of ethnic Macedonian émigrés, and that Macedonian Diaspora organization throughout the politi-

²⁹ Andrew Reynolds, *Electoral systems and the protection and participation of minorities* (Minority Rights Group International, 2006)

³⁰ Most, “Final Report on the Early Parliamentary Elections 2008” (Skopje, 2008), <<http://camost.org/images/transparency/Parliamentary%20Elections%202008/parlamentarnilzbori2008.pdf>>. An in-depth account of the interplay between territorial division, electoral models and minority rights is provided in Daniel Boschlter, “It is not how many votes you get, but also where you get them. Territorial determinants and institutional hurdles for the success of ethnicminority parties in post-communist countries”, *Acta Politica*, forthcoming.

cal development of the country has primarily assumed the role of agents of the Macedonian ethno national self³¹, the decision of the Assembly to include three additional seats for the emigration abroad, but no mandatory seats for the domestic minorities can be interpreted as favoritism towards ethnic Macedonians on the account of smaller ethnic communities. Additionally, the proposal to include granted seats for the smaller ethnic communities was not welcome by Albanians, who argued that providing seats to the minorities might lead to political abuses. One underlying reason for such an attitude, however, can be the fact that with the increase of the number of minorities in the Macedonian Assembly, Albanian parties would lose their monopolistic position with regards to the so called “Badinter” principle (majority among both the majority and minority groups), which is in fact one of the main pillars of their political power.

The larger ECVRD in Macedonia, as any other ethnic community are primarily represented through ethnically based political parties who run on ethno political platforms which are rather focused on the problems of the communities rather than on macro political ones. Therefore, it is assumed that the majority of the voters from the ECVRD chiefly support the political subjects that articulate ethnicized platforms. Additionally, the lack of viable multi-ethnic political subjects on the Macedonian political scene leads to the assumption that members of ECVRD are deprived of the opportunity to vote for a holder of a civic platform that would offer an alternative of the predominant model of ethnically framed political discourse. However, the most recent trend is that political parties of the ECVRD often enter pre-electoral coalitions with the bigger parties, as the participation in a larger coalition means granted entrance in the Assembly. Furthermore, grand coalitions have larger budgets for political campaigning. These two aspects make the joint performance more plausible to political leadership of the parties of the ECVRD.

This notion leads to the conclusion that by attempting to vote for “their” party, voters from ECVRD in these cases vote primarily for the coalition which the ECVRD party has joined, usually being led by the major ethnic Macedonian parties. The objective risk of such voting pattern is that if the representatives of the ECVRD for potential Members of the Assembly are

31 For instance, the World Macedonian Congress, a transnational ethnic Macedonian organization aiming to link the Diaspora with the homeland, has been the main agent of the 2004 referendum and protests against the Law on Territorial Division. Their main argument was that the Law was an instrument to create more Albanian dominated units of the local self-government, which they found outrageous. In 2010, the International Macedonian Network for Human Rights has been one of the major campaigners for the protection of the constitutional name of the Republic of Macedonia, despite the fact that the Government is in the process of negotiation for a mutually acceptable name with Greece. Their main argument is that the “identity” of ethnic Macedonians is being threatened.

lower on the list offered by the coalition, and at the end of the day he or she does not end up victorious, it would mean that the votes of the members of the particular ECVRD have served the interest of the coalition, but not the ECVRD political parties. Furthermore, in such a situation, the members of the ECVRD have no provisions that even if the coalition they voted for comes in power, it will take action towards the improvement of the conditions of the everyday life of ECVRD.

Also, sometimes the participation of political parties of the ECVRD in broad coalitions is purely symbolical, as they do not nominate candidates for the electoral lists; in this case, the voters from the ECVRD, even if they vote for the particular coalition, cannot vote for a representative of their own milieu that could adequately address their needs and interests.

These factors indicate that despite the relatively favorable electoral model, there is no unconditioned relationship between the existence or the activism of political parties of the ECVRD and their fair political representation in the national legislature.

The local elections held every four years, combine both the List PR and the majoritarian models. Members of the Councils of the units of the local self-government are elected through the List PR model and by distributing the seats via the d'Hondt formula. On the other hand, mayors are elected via the system of majority vote, which depending on the turnout, can end in the first (if more than 50% of the registered voters participate in the election) or in the second round (if the criteria of 50% is not fulfilled in the first round). The electoral districts are the units of the local self-government, comprised of 84 municipalities plus the City of Skopje. They are of special importance for the Roma of Shuto Orizari, as they comprise the majority there and since 1996 have elected Roma mayors.

The Presidential elections are held every five years and so far did not have special meaning for the ECVRD. No candidate of the ECVRD has ever run for Head of State.

Probably the most typical aspect of the political representation of the Roma throughout the recent political history of the Republic of Macedonia is the obvious plurality of Roma political subjects, the lack of singular and unified political stance and the lack of legitimate and undisputed community leaders³². However, if observed in the broader European context, this has not been an exception as the Roma discourse elsewhere

³² Abizija Memedova et al. "Blank Face, Private Strength: Romani Identity as Represented in the Public and Private Sphere" in in Roma's Identities in Southeast Europe (Ethnobarometer, 2005), pp. 19-47.

has been marked by the extensive plurality and internal contention of Roma political subjects³³.

Roma political parties have profiled themselves as relatively weak since they are continuously shaken by internal divisions, which on the other hand make them easy allies when it comes to the formation of political coalitions. At present there are five political parties of the Roma community in the Republic of Macedonia, all of which members of the ruling “Coalition for Better Macedonia” since 2008. The coalition is spearheaded by the VMRO-DPMNE, the largest Macedonian political party. Those political parties are: The Union of the Roma of Macedonia; The United Party for Emancipation; Party for Integration of the Roma; Democratic Union of the Roma and Party for Full Emancipation of the Roma of Macedonia.

The Party for Full Emancipation of the Roma of Macedonia (PCERM) has been the oldest Roma political party, established during the early 1990s, and it has been the “alma mater” of all the important Roma politicians. The party officially united with other Roma political movements into the United Party of the Roma of Macedonia in 2002. It was re-founded in 2006 by Samka Ibraimovski, a wealthy businessperson and former Vice Minister of Labor and Social Policy.

In the period of 1991-1994, it had one representative in the Assembly in Faik Abdi. Abdi was a notable Roma leader who has been active even back in the 1970s during the transnational Roma movement, and has later served one term as a Member of the Assembly of the Socialist Republic of Macedonia in the period 1969-1974. In 1994-1998, PCERM has had two Parliamentary seats: the one of Faik Abdi, and the one of Amdi Bajram, then a rising Roma businessman and political leader. He has become one of the most notable political figures in Macedonia, as with his rough and strident image has attracted the media attention. Bajram later founded the Union of the Roma of Macedonia and as its representative served four years as a Member of the Assembly (1998-2002). Presently, he is MP (term 2008-2012) as a representative of the Union of the Roma of Macedonia, being the single Roma and ECVRD MP. Bajram is infamous for the many controversies and accusations of crime surrounding him (he was sentenced and went to prison for one of them), the public excesses including threatening of journalists and ridiculous public statements such as the one that he will always coalesce with the winning party, regardless of whoever that is. His son, Elvis Bajram, is currently mayor of the Municipality of Shuto Orizari,

³³ See Zoltan Barany. “Romani Electoral Politics and Behaviour”, Journal on Ethnopolitics and Minority Issues, Issue 1 / 2001, <http://www.ecmi.de/jemie/download/Focus11-2001Barany.pdf> (accessed 29 October 2010)

which is the single example of a Roma-governed municipality in Europe. Elvis Bajram has caused a lot of public controversy as well. During Bajram's imprisonment, the Union of the Roma saw the rise of Shaban Saliu, a judge, elected MP for the term 2006-2008. However, after a dramatic split with Bajram, Saliu founded the Democratic Forces of the Roma (DSR).

In 2007, the Macedonian political scene was enriched with another Roma political party, named Democratic Union of the Roma, established in Prilep and led by Adem Afiroski.

The United Party of the Roma (OPR) of Macedonia since 2002 was led by Nezdet Mustafa, who was Member of the Assembly during the term 2002-2006. Mustafa later served as president of the United Party for Emancipation, following the dissolution of the OPR. He served as an MP during the period 2006-2008 and since 2008 he is a Minister without Portfolio in the Government of the Republic of Macedonia. He has gained momentum during the recent scandal with France's repulsion of Roma.

Nezdet Mustafa is also the first Roma mayor in the country. He was mayor of the Municipality of Shuto Orizari in two terms (1996-2000 and 2000-2002). During his transition from mayor to MP, the local government of Shuto Orizari underwent political crisis, which was finally resolved by the appointment of Erduan Iseni, member of the OPR. During the local elections in 2005, Iseni was re-elected. In 2009, Elvis Bajram has won the local elections and became the new mayor of Shuto Orizari.

Besides the mayor position in Shuto Orizari, many Roma politicians participate in the Municipality Council. In addition there is one Roma councilor in the City council of Skopje, coming from the Party for the Integration of the Roma.

The complexity of the Roma political scene, along with the numerous feuds and cliques formed around individuals of power has driven back the ordinary people, reducing their enthusiasm. The Ethnobarometer survey points out that many of the Roma individuals have disapproving attitude towards Roma politicians and see them as lucrative and opportunistic, rather than as activists for the Roma rights. On the other hand, the vacuum between the official political representatives and the Roma population has resulted with the emergence of a very broad civil society network comprised both of domestic and transnational organizations, who have worked in the field of formal and informal education, providing legal assistance, improving the socio-economic situation and in general raising awareness regarding the Roma issue. Especially significant has been the role of the so called "Roma lobby", an ad hoc coalition of five Roma NGOs (Roma Association

“Luludi”, the Network of Roma Women “Together”, the Network of Roma Women “Esma” and the Roma Organization “Drom”) formed in order to monitor the extraordinary round local elections in the municipality of Shuto Orizari in 2005, due to the high prospects of recurring criminal activities and irregularities, which was the initial problem with the previous round of the elections³⁴. Other important Roma civil society subjects are the National Roma Centrum, which has carried regular campaigns, workshops and seminars on civic and electoral education for the Roma; the NGO Arka which has provided various forms of assistance to Roma who had had problems with obtaining documents for identification and citizenship; the Association for Democratic Development of the Roma “Sun”; the Association for the Integration of the Roma “Moon” and so on. The general impression is that while the efforts of the Roma politicians have been mostly in the sphere of the discursive “high politics”, the impact of the civil society subjects has been more reflected on a lower level, effects felt in the improvement in the everyday life of the ordinary population.

Macedonian Egyptians are currently being represented by one political party – the Party Union of Egyptians* (PSE), established in Ohrid and working primarily in the broader Ohrid region. It has been part of the wide coalition “For a Better Macedonia” spearheaded by the VM-RO-DPMNE political party. It has not participated independently on any elections and has not listed candidates nor was represented in any branch of the government.

While the PSE has profiled itself more as a partner rather than as an independent party, the role of the bearer of the interest of the ethnic Egyptians in Macedonia has been played by several civil society actors. The most important of them has been the Union of Egyptians, established in 1990, which has been active in awareness rising but also research projects. The Union of Egyptians has networked with other NGOs from Macedonia, the Western Balkans and Western Europe, and has established itself as a serious research and advocacy organization, implementing large scale activities with the support of the institutions of the European Union. There are several other local Egyptian non-governmental organizations dealing with the protection of Egyptian rights, such as “Amon Ra” from Bitola and “Isida” from Resen. Two important performative art collectives promoting Egyptian culture are “Pyramid” and “Nefertiti”.

³⁴ See NGO Infocenter 16 August 2005,
<<http://www.nvoinfocenter.org.mk/event.asp?site=nvo&menu=&lang=mak&id=346>>

* This situation was actual in a moment of field research and writing of the paper. In April 2011 when this publication is published PSE was anymore active political subject.

As in the case of the Roma, the assessment of the effects of the Egyptian organizations leads to the conclusion that it is rather the civil society subjects, than the political parties who have had a larger contribution for the improvement of the status and the general socio-economic position of the ordinary Egyptian population, the increasing of Egyptians' public visibility and the advancement in terms of full integration of the Egyptians within the institutions of the system.

The Ashkali and Kovachi communities do not have significant political representative. The votes of Ashkali and Kovachi people are assumed to have been distributed among Roma, Egyptian or Albanian political parties.

The discourse of the mainstream political parties, regardless of their ideological or ethnic profile is marked by general openness and the acceptance of the existence of various ethnic communities regardless of the size and the aspects of self-definition of such communities³⁵. Consequently, the main political parties (SDSM and VMRO-DPMNE whose representatives were interviewed, and furthermore DUI and Demokracia e Re, whose attitude was deducted from a broader discourse analysis, have generally open discourse towards the ECVRD, since they consider their question being part of the field of multiculturalism. Therefore, the general impression is that a crucial factor for such a friendly attitude of the Macedonian political parties might be primarily a result of their obedience to the multicultural model of the state rather than their awareness of the problems of social exclusion the ECVRD face.

One significant aspect of the political constellation of Macedonia has been the role of the political parties of the ECVRD, in the first place the Roma political parties, as factors for balancing the tension between the Macedonian and Albanian political blocs. Eben Friedman has argued that the Roma discourse has been utilized primarily by Macedonian authorities not only out of concern for the minority itself, but also because of the tug of war between various political parties. As he points out, “threatened by rivals both Macedonian and Albanian, Macedonian authorities have granted rights to the Roma in the hope of securing loyal allies against other segments of the titular population and Macedonia’s largest ethnic minority.”³⁶ Further-

³⁵ The most significant exception is the Bulgarian-Macedonian minority, which is comprised of people originating from ethnic Macedonian background, who claim that are related with the Bulgarian nation, opposing the official Macedonian national narrative. The label used for denoting this category is “Bulgrophiles”, “Tout-a-Bulgarians” and “Tatars” and they are continuously derided as traitors of the Macedonian nation and accused of being servants of the Bulgarian anti-Macedonian propaganda.

³⁶ Eben Friedman, “Political Integration of the Romani Minority in Postcommunist Macedonia”, Southeast European Politics Vol. III, No. 2-3 November 2002, pp. 107-126

more, Macedonian politicians, motivated by pure multiculturalism endeavors or simply by resentment towards Albanians, argue that the country has neglected the smaller ethnic communities on the account of the larger ones.

The representatives of the VMRO-DPMNE are especially proud of the fact that the coalition led by them, named “Coalition for Better Macedonia”, incorporates parties representing the Turkish, Serbian, Vlach, Bosniak, as well as five Roma parties and the Party Union of the Balkan Egyptians. According to them, their coalition has been example of true multiculturalism and their party has set very high criteria in terms of the inclusion of the political representatives of the parties of the smaller ethnic communities. However, in the official rhetoric of the VMRO-DPMNE, the Roma issue is perceived as an ethnic one, rather than as an issue of social exclusion of a category vulnerable to racial discrimination. Similar is the treatment of the other ECVRD, which are seen as “smaller ethnic communities” whose right for cultural self-definition and full integration have been granted and fully supported. The VMRO-DPMNE is fairly regarding their potential listing of the ECVRD such as the Egyptians as a separate community in the Preamble of the Constitution.

The representatives of the SDSM on the other hand, are aware of their shortcoming to secure stable alliance with the political representatives of the ECVRD, although besides political support, the party as an opposition one cannot provide any other concrete benefits for the smaller political parties. The SDSM is aware that the problem of the ECVRD is a problem of social exclusion and therefore aims not only to broaden the debate on the Roma question to the wider spectrum of ECVRD, but also to present their problem as structural rather than as an ethnic one. They do not believe that the “bargaining” with the political leadership of the ECVRD will automatically if at all improve the situation of the ECVRD, and therefore they are supporting the idea of full integration regardless of the short-term political interest to coalesce with certain political subjects.

Mainstream Albanian parties, on the other hand, have promoted a fairly neutral rhetoric towards the ECVRD issue. However, there might be a claim of latent contention between the respective political blocs, because, on one hand the dominance of Albanians in the political discourse has overshadowed the smaller ethnic communities, including the ECVRD, while on the other, the growing importance of the question of the ECVRD, and if it is especially defined as a problem of social exclusion rather than an ethnic one, a significant portion of various resources designated to the practice of multiculturalism might be shifted towards the ECVRD.

The ECVRD, primarily due to their disadvantageous socio-economic position that is a result of durable structural marginalization, face several crucial problems for their fair and effective political representation.

The most burdensome issue of many members of the ECVRD is the issue of statelessness. Plenty of secondary sources point to primarily to the reality of thousands of Roma who did not manage to obtain Macedonian citizenship after the break-up of Yugoslavia because of structural problems, such as illiteracy, inability to prove their constant residency because of the lack of documentation but also the living in slums or simply are nomadic or homeless³⁷. Additionally, due to the extreme destitution in which many Roma and in general members of the ECVRD have found themselves, they cannot even afford the fees for the documentation, even though they vary from five to twenty Euros³⁸. Their status remains uncertain and unregulated. Both the native members and political migrants from ECVRD are left on the mercy of the labyrinthine system of the Macedonian bureaucracy.

The possession of a Macedonian citizenship is the single valid argument for one individual to be able to exercise their own voting rights. Without citizenship, one loses the right to vote and therefore the right to political participation. Granting and advancing citizenship rights have been pointed as fundamental issues regarding the advancement of the political situation of minorities, but still remain a challenge for Macedonian institutions.

The economic insecurity and the state of penury by which numerous members of the ECVRD are struck, make them further a likely target of unlawful endeavors, electoral frauds and political manipulations by the local political elites. This is especially the case when it comes to the elections and the ruthless struggle for votes, which is deprived of any ethnical norms. Very often, political partisans buy off the votes of the locals in areas of extreme impoverishment, as the immediate financial or any other material gain for the population is enough of an incentive to give up their voting rights. The simplest way is the practice of providing “oil and flour” or other basic groceries to the socially excluded population, for which in return they support the party that has provided the goods. Another, more subtle practice established among the Macedonian peripheries is the so called “train voting” in which the voters are given an already filled ballot outside the voting place

³⁷ See Ljubica Spaskovska, Macedonia's Nationals, Minorities and Refugees in the Post-Communist Labyrinths of Citizenship, CITSEE Working paper no. 5 (Edinburgh, 2010) and Melina Grizo, “Roma, gender and citizenship: the developments in the Republic of Macedonia”, paper presented at the 2010 CITSEE Conference “Theories and Practices of Citizenship in the New Balkan States”, Edinburgh 24-25 June 2010

³⁸ Joanne van Selm, “Stateless Roma in Macedonia”, Forced Migration Review 32, April 2009, pp. 46-47. Additionally, Macedonia has welcome members of ECVRD from Kosovo and Serbia that fled their places of origin due to the political and military crisis in the late 1990s, most of which sought asylum in the country.

by a “facilitator”, which they later cast in. On their way out of the voting place, they return the empty ballot which was originally designated for them in the voting place, handing it in to the “facilitator” who fills it in and hands it to another voter and so on. Usually the “facilitators” are also recruited from the ECVRD in order to gain the trust of the locals. The compensation the involved in the process get for such actions is insignificant compared to the standards of the average citizen of Macedonia, but it is more than enough to help them make ends meet as their struggle is day-to-day.

This problem is inherently related to the social structure of the ECVRD. Due to the generally low level of education and the unfavorable conditions for political and public life participation, one of the developments has been the rise of controversial ECVRD political elite. In fact, as it was discussed above, certain political representatives of the ECVRD have had long list of misconducts, raising the question whether their careers are driven by devotion to their communities or by individual opportunism and lucrative interests. Very often, precisely these leaders are suspected of being involved in electoral scams to the extent of being the major architects of the fraudulent practices, which at the end of the day, regardless of the electoral outcome, harms the integrity and the interests of the ECVRD. In fact, the reports of the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE/ODIHR) for the elections in 2009 has come up with the remarks that electoral irregularities and controversies occurred in the Roma dominated Shuto Orizari, which have included disputing the final outcome manifested in the forms of public protest³⁹. The civic organization “Most” has also noted that among other regions, there were irregularities in terms of the counting of the ballots in the Roma dominated Shuto Orizari during the elections of 2009⁴⁰.

Finally, one especially important obstacle to the equal exercise of the voting rights and the right to political participation by the members of the ECVRD is the infamous occurrence of the so called “family voting”. “Family voting” is the practice of the male members of the families, usually the seniors, to fill in the ballots of their wives and possibly other members of their family. This practice is not typical exclusively for the ECVRD, but for a large share of the population in Macedonia, primarily inhabiting the rural and impoverished areas. It is seen as a practice detrimental to gender equality and as impairing the political rights of women. As the OSCE/ODIHR

³⁹ OSCE/ODIHR, Final report on the 22 March and 5 April 2009 presidential and municipal elections in the former Yugoslav Republic of Macedonia (2009), p. 11

⁴⁰ Most, Final Report on the Local Elections 2009 (Skopje, 2009), < http://camost.org/images/transparency/elections2009/Izvestaj%20izbori%202009_Final_3%20jazici.pdf>, p. 58

reports for the elections in 2008 and 2009 have noted, not only the family voting problem is “widespread”, but it especially worrying that many of the election officials and monitors have the function of perpetuators and enablers of family voting, as they do not sanction or report it, besides the fact that they witness it regularly⁴¹.

The electoral rules in Serbia⁴² stayed basically unchanged since 2000. The size of the National Assembly is 250 seats and elections are held every four years. After the initial elections in 1990 (which were based on two-round vote majority) all parliamentary elections were based on proportional allocation of votes to seat. The changes in electoral rules were concerning the number of districts, while the allocation formula (D'Hondt) and threshold remained constant (5%).

The downfall of the Milošević regime necessitated early parliamentary elections. The elections were held according to the new Law on the Election of Members of Parliament. The greatest change was that instead of division into 29 districts Serbia was transformed into one electoral district. This positively affected the proportionality of the outcome.

However, the threshold presented a significant problem for minority parties. Temporarily, this problem was overcome by means of a coalition. Namely, the DOS was a broad coalition that incorporated 18 parties and, among them, some of parties of national minorities – the Alliance of Vojvodina Hungarians (SVM) and the Democratic Party of Sandžak (SDP). These two parties had 6 and 2 MPs respectively. Nevertheless, the coalition did not have any parties representing ECVRD and, consequently, there were no MPs presenting these constituencies.

The negative effect of the threshold became apparent during the subsequent elections. Namely, the elections were held after the state of emergency, under conditions of high polarization and general political confusion. Major parties entered competition without coalitions, while several national minority parties formed coalition Together for Tolerance. The alliance was formed by the League of Vojvodina Social Democrats, Alliance of Vojvodina Hungarians, the Sandžak Democratic Party, and the League for Šumadija. A number of Roma political parties were involved in the campaign, including the Roma Congress Party and the Democratic Party of Roma. Most of them supported the lists of Together for Tolerance and Reformists coalitions. However, the participation of the Roma voters was

⁴¹ See OSCE/ODIHR, Final Report on the 1 June 2008 Parliamentary Elections in the Former Yugoslav Republic of Macedonia (2008), p. 16; OSCE/ODIHR, Final report on the 22 March and 5 April 2009 presidential and municipal elections in the former Yugoslav Republic of Macedonia (2009), p. 21

⁴² The section on Serbia is an extract from the wider report written by the local expert David Pupovac

rather low even in polling stations located in the Roma dominated municipalities. According to the OSCE report this might have been a result of a lack of voter information campaign addressing the Roma population and the fact that a significant number of Roma are not registered to vote due to unresolved residency status and lack of identification documents. Overall, these conditions had grave effects on the representation of minorities. For the first time since 1990 in Serbia none of minorities had any representatives in the National Assembly. Consequently, this was also the case for the representatives of ECVRD.

In order prevent this type of outcomes in the future the National Assembly in 2004 amended the Law on Election of Representatives by imposing a lower threshold on national minorities' parties. According to the present rules, the national threshold of 5% does not apply for parties of national minorities. Namely, for a minority party to win a seat in the Parliament the threshold is 0.4% of total votes cast, which is depending on the turnout, between 14,000 and 16,000 votes. In addition, national minority parties could register their list for the election obtaining 3000 signatures instead of the usual requirement of 10,000 signatures per registration.

The first elections held under these rules were the 2007 elections. Two ECDVR parties entered the National Assembly: the Roma Party and the Roma Union of Serbia. Both parties had a single Member of Parliament: Srđan Šajn and dr. Rajko Đurić, respectively.²⁰ Both MPs where leaders of their respective parties and headed their lists. Nevertheless, one of the objections made in OSCE report was low voter registration among internally displaced Roma population.

However, the lifespan of this National Assembly was to be shortened due to the need to adopt the new Constitution. The adoption of the new Constitution necessitated reelection of the National Assembly. Consequently, in this short period (less than year and a half) representatives of ECVRD in the National Assembly were not exceptionally visible. This was also partly due to the intensive discussion over the content of the new Constitution.

The pre-term election was held on May 11th 2008. Generally, the election had an increased participation of parties rooted in national minorities. One of the issues that had affected campaign of minorities was the requirement to collect 10,000 rather than 3,000 signatures as in the 2007 election. Although national minority parties reported difficulties to do this, nearly all of them were able to fulfill this provision of the law. Three Roma parties participated in the election Roma For Roma - Miloš Paunković, Roma Party - Srđan Šajn and The Roma Union of Serbia - dr. Rajko Đurić. All three

Roma parties complained about problems in the registration of candidate lists, the election administration and the campaign. Their main concerns were the slow performance of the court clerks in the process of verifying the support signatures, and the non-acceptance of their representatives in the extended composition of the polling boards in municipalities with a significant percentage of Roma population. In addition, OSCE report signaled internal conflicts and competition in the Roma community. These circumstances led to a poor performance of Roma parties in general. Namely, none of the parties succeeded in passing the threshold and securing a seat in the National Assembly.

Nevertheless, despite the failure of Roma parties to obtain seats in a regular way in the current convocation of the National Assembly there is a party aspiring to represent Roma minority. In May 2009 Jovan Damjanović has left the parliamentary caucus of the Serbian Radical Party and formed a new party – the Democratic Left of Roma. At the moment, he is the only representative specifically on the behalf of the Roma minority, and ECVRD in general, in the National Assembly.

However, despite the failure of parties of ECVRD to attain and hold the seats in the National Assembly, there were always Members of Parliament who originate from ECVRD. As a rule, they were the members of the major parties which were successful in obtaining a substantial portion of seats in the National Assembly. One of the more interesting examples in that regard is the far-right Serbian Radical Party, which always tended to have a strong support in Roma community and also had a propensity to have MPs originating from ECVRD. Nevertheless, given the lack of data, these MPs cannot be definitely identified and, in general, they never distinguished themselves as strong proponents of right of ECVRD.

The elections of national council members are held every four years. There are two types of elections: direct and indirect elections via electoral assemblies. The Councils of a National Minorities are elected directly when the number of persons belonging to the national minority and registered in the electoral roll exceeds 40% of the number of citizens who declared themselves as persons belonging to that minority at the last census. Three ECVRD qualified to have their representatives elected in this way: Roma, Egyptian and Ashkali. Separate electoral registry was created for every national minority. Registration in the voter registries for the election of National Councils began in November 2009. The elections were held on June 6th 2010.

The last local elections were held on May 11th 2008, at the same time as the parliamentary elections. The three ECVRD (Roma) parties, which participated in parliamentary elections, also participated in the local elections. These parties are as follows: Serbian Roma Union - dr Rajko Đurić (Unija Roma Srbije - dr Rajko Đurić), Roma party - Srđan Šajn (Romska partija - Srđan Šajn), and Roma for a Roma - Miloš Paunković (Romi za Roma - Miloš Paunković). Beside these three lists, which aspired to represent Roma national minority via master lists across several municipalities, there were several lists with background of ECVRD composed only for means of electoral competition at the particular locality. In general, most of the votes received by ECVRD parties came from Pčinja district. Nevertheless, overall results were inferior.

The exact ethnical composition of municipal governments cannot be determined. There is no data to facilitate the analysis of the matter in any particular detail. Nevertheless, after inspecting all available Internet presentations of local governments, especially focusing on positions of the municipal president (mayor) and its deputy, it is evident that number of the members of ECVRD on leading positions of municipal government is negligible. In general, members of ECVRD do not participate in local government in any significant extent.

The lack of organization and independent funding of political association of ECVRD makes them susceptible to the influence of the mainstream parties. The parties in power tend to suppress authentic voices and political request coming from ECVRD. In general, this should not be understood as the overt indication of the direct and intended act of discrimination. Rather it should be interpreted as an attempt to control centers of political power, including those of minorities. In this sense, the lack of political organization within ECVRD allows mainstream parties to overtake the institutions devised for protection of right of ECVRD.

In general, mainstream parties are open to cooperation with parties and political organizations of ECVRD. Nevertheless, the lack of organization and permanent conflict immanent to political associations of ECVRD renders them irrelevant in the bargaining process. Considering the population of ECVRD in the Republic of Serbia, it is clear that the leverage of ECVRD is disproportionately small in comparison to the other minorities (e.g. Bosniak and Hungarian).

Overall, mainstream political parties are neglecting the problems of ECVRD. The analysis of recent manifestos (2008 election) of major political parties in Serbia conducted for the purpose of the research presented

here did not find any reference to any of ECVRD. The problems facing ECVRD are taken in the context of minorities in general, and no particular attention is paid to the specific needs of ECVRD. In general, mainstream parties do not find the issues of ECVRD electorally profitable.

Regarding the membership of ECVRD, mainstream parties are open to joining the individuals coming from ECVRD. This stretches even to the far-right parties. However, it seems that there is a tendency of members of ECVRD to join the ruling parties. For instance, during 1990s members of ECVRD were joining the Socialistic Party of Serbia (Socijalistička Partija Srbije) in large numbers. Currently, this is the case with the Democratic Party (Demokratska Stranka). Nevertheless, although mainstream parties are careful to have some Members of Parliament originating from ECVRD, there seems to be underrepresentation of ECVRD in leadership of mainstream parties.

In the case of **Montenegro**, there are no ethnic political parties representing the interests of ECVRD. Also, there are no ECVRD MPs from mainstream political parties.

The case of **Albania** is very similar in some aspects – there are no ECVRD political parties represented in the Parliament, neither MPs from mainstream political parties which publicly declare their affiliation with ECVRD. However, there are a number of aspects that make the situation in Albania specific, unfortunately in negative terms.

There have been continuous attempts for political organization of ECVRD, especially of the Egyptian one, within their own political party. These attempts lacked success, mainly because of the general atmosphere of intimidation which followed them. Representatives of ECVRD in Albania often complain about intimidation of their candidates and voters during the last electoral processes in Albania. Besides threats, this atmosphere of intimidation also includes cases of violence against the members of ECVRD⁴³. Overall, this cases of violation of voting rights (both active and passive) of ECVRD in Albania result with high level of exclusion of these communities from the electoral processes.

In the case of Kosovo, ECVRD are parliamentary represented through 4 MP's, holding the parliamentary seats reserved for Roma, Egyptians and Ashkali. According to the results of last parliamentary elections, held on November 17th 2007, two of these seats have been won by the Democratic Ashkali Party of Kosovo, one by New Democratic Initiative for Kosovo (representing Egyptians), while the remaining seat is held by the United Roma Party of Kosovo.

⁴³ Representatives of ECVRD from Albania shared a number of examples for this atmosphere of intimidation, during the Regional Conference held in Struga (18-20 March 2011), which was a part of this project.

Conclusions and Recommendations

Generally, it is fair to conclude that the ECVRD in the countries of the Western Balkans share the same problems. The level of unemployment within these communities is substantially higher than the national average in each of these countries, their level of education is generally low, and their housing is often sub-standard, while their accessibility to health and social services is mostly inadequate. Besides these general problems of poverty and social exclusion, ECVRD in the countries of Western Balkans also face substantial problems with their political representation and inclusion within the electoral processes. Level and nature of these problems vary between the different countries, but there are also some common problems imminent for the whole region.

First, and probably the most important general problem is the issue of visibility and recognition of ECVRD. All countries have a problem with determining the exact number of members of these communities living on their territories. Results from the official censuses of population are often disputed and considered as unreliable, mainly due to the significant number of members of these communities without a regulated citizenship status (especially in the countries of former Yugoslavia), but also because of the refugees and internally displaced ECVRD members, who often remain invisible for the official statistics. Also, there is a problem with the un-equal statistical standards of population censuses in different countries. While some of the censuses are more sensitive (in terms of classification of ethnicity, or ethnic origin) and reflexive towards the differences between these communities, other countries' official statistics classify ECVRD simply as "Roma" or "others", or even, as it is the case in Albania, do not include the declaration of ethnicity as one of the bases for statistical classification of its population.

Results from the censuses of population can be considered as the most basic form of recognition of existence of an ethnic community in a specific country and are also an essential tool for further design of adequate policies and institution for their representation and inclusion. Therefore, it is necessary to adopt unified standards for ethnical classification within the population censuses for all countries in the region. These standards must provide a freedom of declaration of ethnicity and a fair classification that fully respects and reflects the differences between various ECVRD. Implementation of this recommendation should be considered as urgent, because

of the fact that population censuses will be conducted in all of the countries of the Western Balkans during this year (2011) and the results of these censuses will influence all policies regarding the position of ECVRD during the following 10 years.

Secondly, the problem of violation of electoral rights of members of ECVRD is also present in all countries of the region (but with different intensity). Due to their un-favorable social position, members of these communities are often subjected to electoral bribery or intimidation, trading their votes for the lowest possible price or voting under various forms of threats. Therefore, it is necessary to establish a system of enhanced monitoring at the polling stations where these practices have been identified during the previous electoral cycles. Also, there is a need for continuous efforts in education and raise of the awareness of members of ECVRD on their voting rights.

Thirdly, there are problems with the efficiency of the organizations (political parties, as well as civil society organizations) articulating the interests of ECVRD on local and national level, which has to be addressed. There are a number of different reasons for this lack of efficiency, in different countries and concerning different ECVRD – in some countries, there is a problem of fragmentation and atomization of the political parties of ECVRD (especially in the case of Roma), which directly decreases their political influence; there is also a case of lack of political articulation (either in form of a separate political party, or in a framework of the existing political parties) of some ECVRD; and finally, there is a case of systematic pressure against the political organization and articulation of some ECVRD, as it is the case with the Egyptian community in Albania. This lack of efficiency hampers even the possibilities for adequate political representation of ECVRD offered by the existing institutional framework in the countries of the region. Therefore, it is necessary to facilitate cooperation between the political organizations (existing, as well as establishment of new ones in the cases where there is a lack of adequate organizations) of ECVRD in pursuit of their common goals. This cooperation has to be established both within the communities, as well as between the various ECVRD. In a situation where they share common problems, there is a need for common effort to overcome those problems, with full respect for cultural and ethnic specifics and differences between various ECVRD.

These recommendations are addressed to the international community, local and national authorities, as well as to the civil society, because the implementation of each recommendation needs their concerted effort.

Case studies

Macedonia

1. Identification of the ethnic communities

The Preamble of the first Constitution of Macedonia from 1991 defined the State as: “a national state of the Macedonian people, in which full equality as citizens and permanent co-existence with the Macedonian people is provided for Albanians, Turks, Vlachs, Romanies and other nationalities living in the Republic of Macedonia....”⁴⁴ However, this formula was amended following the dramatic events from 2001, when an internal armed conflict occurred between the Albanian groups and the Government forces. The new Preamble referred to: “Citizens of the Republic of Macedonia, the Macedonian people, as well as citizens who live within its borders and are members of the Albanian people, Turkish people, Vlah people, Serbian people, Roma people, Bosniak people and other.....”⁴⁵.

The armed conflict ended with the Ohrid Framework Agreement which introduced major changes of the Constitution and the legislation⁴⁶. A multicultural model of a state was envisaged, based on Lijphartian consociativist model⁴⁷. Balanced representation of the ethnic communities in the institutions of the State and minority rights were guaranteed. Thus, instead of being a Nation-State of the Macedonians where other numerous people live, according to the changes, the State became multicultural, albeit unitary. It was based on the principles of power sharing, equal representation and advancement of minority rights. One controversial consequence of these changes was a firm establishment of the ethnic belonging. For this reason, as mentioned above, the new Preamble defines Macedonia as a country constituted by members of people, rather than as a country constituted by its citizens.

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44 Official Gazette No. 52/91.

45 Amendment IV of the Constitution, Official Gazette No 91/2001.

46 See Natasha Gaber and Aneta Joveska, “Transformation in the Macedonian political system and the inclusion of ethnic groups”, South-East Europe Review, no. 1 (2009), pp. 87 – 98.

47 A detailed analysis of the Macedonian political model, as well as of the contemporary governance issues in: Daskalovski, Zidas. “Macedonia” in Nations in Transit 2010 (Freedom House, 2010).

The major legal changes which followed the Ohrid Framework Agreement referred to the use of the Macedonian language, as well as the use of languages spoken by non-majority communities⁴⁸; adequate and equitable representations in the State government bodies and other public institutions⁴⁹; legal equitability of religious communities⁵⁰; fostering the identity⁵¹; double majority in decision making at plenary sessions in the Assembly⁵²; extension of powers of the local self-government units⁵³. All of these rights were intended to improve the Constitutional position of the Albanian minority.

From the point of view of numerous ECVRD living in the country, this was not necessarily a beneficial development. Thus, although the importance of ECVRD was recognized, the members of these communities gained little opportunity to integrate. The numerous legal changes provided advantages for the Albanian ethnic community, while numerous other communities (ECVRD) living in Macedonia had little benefit from it.

Indeed, the question is not easy to settle, as the demographic map of Macedonia shows a great ethnic variety. In accordance with the data of the official census conducted during 2002, the demographic structure re-

48 According to the amendment V, although the Macedonian language and its alphabet are official throughout the territory of the Republic of Macedonia, any other language spoken by at least 20 % of citizens is also an official language, with its written alphabet. In addition, the personal documents of citizens who speak an official language other than Macedonian, in addition to Macedonian and its alphabet, shall also be issued in the language and its alphabet in question.

In the organs of the Republic of Macedonia, any official language other than Macedonian may be used in accordance with the law. Equally, within the units of local self-government, a language and its alphabet used by at least 20 percent of the citizens shall be an official language, in addition to Macedonian and its Cyrillic alphabet. Use of languages spoken by less than 20 percent of the citizens in a unit of local self-government, shall be decided by the bodies of the local self-government.

49 The amendment VI guarantees adequate and equitable representation of citizens belonging to all communities in state government bodies and other public institutions at all levels.

50 Amendment VII.

51 According to the amendment VIII, the members of communities have a right to express freely, to foster and to develop their identity and community attributes, and to use their community symbols. In addition, the Republic guarantees the protection of ethnic, cultural, linguistic and religious identity of all communities. Members of communities have the right to establish institutions for culture, art, science and education, as well as scholarly and other associations for expressing, fostering and developing their identity. Members of communities have a right to instruction in their language in primary and secondary education, as prescribed by law. In schools where education is carried out a language other than Macedonian, the Macedonian language shall also be studied.

52 According to the amendment X, the Assembly shall make decisions on condition that the session is attended by majority of the total number of representatives. The Assembly makes decisions by majority vote by attending MPs, at least by third of the total number of representatives, provided that the Constitution does not prescribe special majority.

Equally, with reference to laws directly affecting culture, language use, education, personal documents and use of symbols, the Assembly shall make decisions by a majority vote by attending MPs, and in addition there must be a majority of votes by attending MPs who are members of non-majority communities in the Republic of Macedonia. Disputes regarding the application of this provision shall be resolved by the Committee on Inter-Community Relations.

53 According to the amendment XVII, in local self-government units and in the City of Skopje, citizens participate directly and through their representatives in the decision-making regarding issues of local relevance, particularly in the areas of public services, urban and rural planning, environmental protection, local economic development, local finances, communal activities, culture, sport, social child protection, education, health care and other areas prescribed by law.

veals that around 10% of population belongs to small communities, such as the Turkish community, the Serbian community, the Vlah community, the Roma community, the Boshnjak community and other communities. These may generally be treated as ECVRD⁵⁴. The present analysis will attempt to analyze only the issues concerning the political participation of Roma, Egyptians and Ashkali. Still, it may serve to explain some aspects of the position other ECVRD.

According to the census from 2002, there are 53 879 Roma in Macedonia, or around 2,5% of the population. As many of them have difficulties with obtaining personal documents, it is unclear what their real number is. There are also communities of Ashali and Egyptians. However, these communities have been frequently treated as Roma, by the Roma and the others, although they consider themselves distinct from Roma.

The Roma live in a majority in the municipality of Shuto Orizari. In Skopje they form 4.63, in Shuto Orizari 60.60, Bitola 2.74, Veles 1.45, Gostivar 2.75, Kicevo 5.41, Kocani 5.12, Kumanovo 4, Prilep 5.77, Shtip 4.59, Ohrid (other 4.28) The Egyptians populate the region of Ohrid and the western part of Macedonia and Ashkali populate the region of Polog.

The size of this population is not sufficiently clear. There are concerns that the small communities which have not been enumerated in the Preamble of the Constitution (as well as the Roma) have not been treated fairly during the census. For example, during the preparations for the census announced for 2011, they were not allowed to participate in the census commissions. The State Commission on Census decided that the persons responsible for the gathering of census data on municipal level may be only the representatives of two largest ethnic communities, although the Law on census stipulates that the principle of equal representation should be observed. This decision of the State Commission on Census will enable the representatives of Roma to participate in the conducting of census only where they are the first or second largest community and the small communities do not have that opportunity at all. Thus, the associations of the small communities submitted an application to the office of the Ombudsman, as well as to the Commission for protection from discrimination. The Ombudsman ruled in favor of the application and the verdict of the Commission for protection from discrimination is yet to be seen. Fair rules on the conducting of the census would disable eventual manipulations with the census data. On the contrary, the final outcome may be an accurate picture of the ethnographic

54 Out of total population 2022547, there are: Macedonians 1297981, Albanians 509083, Turks 77959, Roma 53879, Vlachs 9695, Serbian 35939, Boshnjaks 17019, Other 20993.

map of Macedonia and possible shifts in the official numbers in favor of the size of the small ethnic communities.

We may end the introductory note with a brief overview of the political actors of these communities in Macedonia. There are several political parties of the Roma in Macedonia: The Union of the Roma of Macedonia; The United Party for Emancipation; Party for Integration of the Roma; Democratic Union of the Roma and Party for Full Emancipation of the Roma of Macedonia. The political party of the Egyptians is the Party Union of Egyptians (PSE). The Party for Democratic Movement of the Egyptians (PDDEM) existed from 1991 till 2006.

2. International legal obligations of Macedonia

Macedonia is a State party to the following **UN human rights treaties**⁵⁵: International Covenant on Economic, Social and Cultural Rights (CESCR) 1966, 18/01/1994 (Suc)⁵⁶, entry into force 17/09/1991; International Covenant on Civil and Political Rights(CCPPR) 1966 (competence for inter-State complaints (Art. 41) not accepted), 18/01/1994 (Suc), entry into force 17/09/1991; Optional Protocol to the CCPR 1966, 12/12/1994 (Acc), entry into force 12/03/1995; Second Optional Protocol to ICCPR 1989, 26/01/1995 (Acc), entry into force 26/04/1995; Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment(CAT) 1984 (competence for inquiry procedure, individual/ inter-state complaints (Arts. 20, 21, 22) accepted), 12/12/1994 (Suc), entry into force 17/09/1991; Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979, 18/01/1994 (Suc), entry into force 17/09/1991; Optional Protocol to CEDAW 1999 (no opting-out of inquiry procedure, Art.10)) 03/04/2000 , 17/10/2003 (acc), entry into force 17/1/2004; International Convention on the Elimination of All Forms of Racial Discrimination (CERD) 1965 (competence for individual complaints (Art. 14) accepted), 18/01/1994 (Suc), entry into force 17/09/1991.

Macedonia is also a State party to the following treaties established under the auspices of the **Council of Europe**⁵⁷: European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) 1950, 9/11/1995 Signature Ratification/10/4/1997 suc/acc, entry into force 10/4/1997; Protocol to the ECHR 1952, 14/6/1996 Signature Ratification, 10/4/1997 suc/

⁵⁵ Sources: OHCHR Treaty Bodies Database, www.unhchr.ch/tbs/doc.nsf, Macedonia State Party reports, accessible at www.ohchr.org, Bayefsky.com, www.bayefsky.com.

⁵⁶ Succession is noted as (suc), and the accession is noted as (acc).

⁵⁷ Source: Council of Europe Treaty Office - <http://conventions.coe.int>

acc, entry into force 10/4/1997; Protocol No. 2 to the ECHR, conferring upon the 9/11/1995, 10/4/1997 suc/acc, entry into force 10/4/1997; Protocol No. 3 to the ECHR, amending Articles 29, 30 and 34 of the Convention 1963 9/11/1995 Signature Ratification, 10/4/1997 suc/acc, entry into force 10/4/1997; Protocol No. 4 to the ECHR, securing certain rights and freedoms other than those already included in the Convention and in the first Protocol thereto 1963, 14/6/1996 Signature Ratification, 10/4/1997 suc/acc, entry into force 10/4/1997; Protocol No. 5 to the ECHR, amending Articles 22 and 40 of the Convention 1966, 9/11/1995 Signature Ratification, 10/4/1997 suc/acc, entry into force 10/4/1997; Protocol No. 6 to the ECHR concerning the Abolition of the Death Penalty 1983, 14/6/1996 Signature Ratification, 10/4/1997 acc/suc, entry into force 1/5/1997; Protocol No. 7 to the ECHR 1984, 14/6/1996 Signature Ratification, 10/4/1997 suc/acc, entry into force 1/7/1997; Protocol No. 8 to the ECHR 1985, 9/11/1995 Signature Ratification, 10/4/1997 suc/acc, entry into force 10/4/1997; Protocol No. 11 to the ECHR, restructuring the control machinery established thereby 1994, 9/11/1995 Signature Ratification, 10/4/1997 suc/acc, entry into force 1/11/1998; Protocol No. 12 to the ECHR 2000, 4/11/2000 Signature Ratification, 13/7/2004 suc/acc, entry into force 1/4/2005; Protocol No. 13 to the ECHR, concerning the abolition of the death penalty in all circumstances 2002, 3/5/2002 Signature Ratification, 13/7/2004 suc/acc, entry into force 1/11/2004; Protocol No. 14 to the ECHR, amending the control system of the Convention 2004, 15/9/2004 suc/acc, entry into force 15/6/2005; European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment 1987, 14/6/1996 Signature Ratification, 6/6/1997 suc/acc, entry into force 1/10/1997; Protocol No. 1 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment 1993, 14/6/1996 Signature Ratification, 6/6/1997 suc/acc, entry into force 1/3/2002; Protocol No. 2 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment 1993, 14/6/1996 Signature Ratification, 6/6/1997 suc/acc, entry into force 1/3/2002; Framework Convention for the Protection of National Minorities 1995, 25/7/1996 Signature Ratification, 10/4/1997 suc/acc, entry into force 1/2/1998.

Also, there are other international law instruments relevant to the human rights protection. For example, in the field of international refugee law, on 18 January 1994 declaration of succession has been submitted to the □Convention relating to the Status of Refugees, as well as the □Protocol relat-

ing to the Status of Refugees⁵⁸.

Due to the acceptance of a wide range of international responsibilities under the human rights treaties, Macedonia is also subjected to a corresponding variety of international monitoring mechanisms. These include state reporting obligations (e.g. under UN treaties, the European Social Charter, the Framework Convention on National Minorities), complaint mechanisms (provided for in some UN conventions and the European Convention on Human Rights) and inquiry procedures (e.g. under the regime of the European Convention for the Prevention of Torture). In addition, several non-treaty-based mechanisms exist, for instance in the area of the special procedures (Working Groups, Special Rapporteurs, etc.) of the UN Commission on Human Rights or the Council of Europe's European Commission against Racism and Intolerance (ECRI); moreover, the activities of the Organization for Security and Cooperation in Europe (OSCE) may be subsumed under this category.

2.1. Overview of recommendations in relation to UN human rights treaties⁵⁹

With regard to the civil and political rights, as well as the access to justice, CERD Committee, 1997 has submitted a Request for additional information on the role of the justice system in eliminating racial discrimination⁶⁰. Also, Human Rights Committee, 1998 has noted the lack of access to information/foreign print media⁶¹.

With regard to the rights of women, CEDAW Committee, 2006 recommended the observance of the local gender equality committees in all municipalities, with adequate powers and visibility as well as an increase political participation in elected and appointed bodies and internationally⁶². With regard to the rights of minorities, Human Rights Committee, 1998 has recommended an increase of the number of Albanians and other minorities in the public life, including in civil service, army, and police; as well as of Roma population, as a “matter of particular concern”⁶³.

58 Source: UN High Commissioner for Refugees, www.unhcr.org

59 Sources: OHCHR website (Treaty bodies, UN Commission on Human Rights' Special procedures), www.ohchr.org

60 Sources: OHCHR website (Treaty bodies, UN Commission on Human Rights' Special procedures), www.ohchr.org

61 Sources: OHCHR website (Treaty bodies, UN Commission on Human Rights' Special procedures), www.ohchr.org

62 Sources: OHCHR website (Treaty bodies, UN Commission on Human Rights' Special procedures), www.ohchr.org

63 Sources: OHCHR website (Treaty bodies, UN Commission on Human Rights' Special procedures), www.ohchr.org

2.2. Overview of recommendations in relation to Council of Europe treaties:

Compared to the UN system, the state reporting on the European level does not rank that prominently in human rights monitoring, because the key human rights instrument there is the European Convention on Human Rights with its Strasbourg-based Court and the corresponding complaint procedures. Still, both other major CoE documents ratified by Macedonia, the European Social Charter 1961 and the Framework Convention on National Minorities (FCNM) 1995, contain reporting obligations for the States parties. Differing, however, from the rather clear UN reporting procedures, the CoE system is less streamlined and involves more bodies. Concerning the European Social Charter, its expert monitoring body, the European Committee of Social Rights (ESCR) receives – on an annual basis – state reports; after considering the report, the Committee adopts ‘Conclusions’ on ESC compliance; furthermore, a ‘Governmental Committee’ of representatives of States parties and social partners follows-up on the Conclusions and may, finally, propose to the CoE’s Committee of Ministers to adopt recommendations to that State party.

In the case of Macedonia, the first state report under ESC was due only in 2007. As far as the FCNM is concerned, a slightly different procedure has been established: here, States parties are required to submit regularly reports (every five years, after the first report) to an expert Advisory Committee; the Committee adopts ‘Opinions’ on state compliance, which are then further discussed at the CoE Committee of Ministers, which takes the final ‘Conclusions’ with recommendations to the State.

In relation to the Framework Convention on National Minorities (FCNM) 1995, the □Committee of Ministers⁶⁴ suggests important constitutional and legislative reforms in accordance with the Ohrid Framework to be further pursued, particularly in relation to minority languages (including of “numerically smaller minorities” than the major ethnic groups), □as well as establishing regular consultations with ethnic groups.

An additional areas addressed by the Opinion of the Advisory Committee⁶⁵ is a stronger focus on smaller minority groups, respect of the distinct identity of the Egyptian community, resolving citizenship issues with Roma and Albanians, stronger protection of rights of refugee/displaced groups,

64 Resolution Res CMN (2005) 4, of 15 June 2005.

65 ACFC/INF/OP/I(2005)001, of 27 May 2004.

improved access to media and broadcasting in minority languages, strengthening structures combating discrimination, such as the Ombudsman, and capacities for minority education in the Ministry of Education, stronger representation of minorities in public administration, judiciary, allowing for greater participation of minorities in the decentralization process.

3. Internal legal framework

There is a broad range of domestic legal acts concerning the issues of political participation of minorities, such as the Constitution of the Republic of Macedonia⁶⁶, the Law on the improvement and protection of the rights of those belonging to the communities which form less than 20% of the population in RM⁶⁷, Law on Asylum and Temporary Protection⁶⁸, Law on Equal Opportunities Between Men and Women⁶⁹, Law on Political Parties⁷⁰, Law on the use of languages spoken by at least 20% of the citizens of RM, as well as in the units of local self-government⁷¹, Law on Territorial Organization of Local Self Government in the Republic of Macedonia⁷², Law on Prevention and Protection from Discrimination⁷³, Law on Citizenship of the Republic of Macedonia⁷⁴, Law on Foreigners⁷⁵, Law on Assembly of the Republic of Macedonia⁷⁶ Law on Financing of the Political Parties⁷⁷, Election Code⁷⁸, Law on Local Self Government⁷⁹, Law on Public Assembly⁸⁰.

In addition, in 2005 the Government of the Republic of Macedonia (the Ministry of Labor and Social Policy) brought a National Strategy on the Roma of the Republic of Macedonia. It should be noted that this Strategy refers just to Roma, instead of referring consistently on the Ashkali and Egyptians. Through international assistance, this population has been a subject of numerous projects, many of them within the Decade of the Roma Inclusion.

66 Official Gazette 52/91, No 91/2001.

67 Official Gazette No 92/08.

68 Official Gazette No 42/03.

69 Official Gazette No 66/06.

70 Official Gazette No 76/04.

71 Official Gazette No 101/08.

72 Official Gazette No 55/04.

73 Official Gazette No 50/10.

74 Official Gazette No 67/92.

75 Official Gazette No 35/06.

76 Official Gazette No 104/09.

77 Official Gazette No 76/04.

78 Official Gazette No 40/06.

79 Official Gazette No 5/02.

80 Official Gazette No 55/95.

3.1. Legal framework of the basic political rights

The first section of this paper refers to the Constitutional provisions introduced in 2001 which provide a wide range of political rights of minorities. As it has been explained above, these rights do not benefit sufficiently the small ethnic communities.

Regarding the fundamental political rights, there are not many points of restriction and discrimination on the legal level. The adoption of the Constitution by the Assembly in 1991 marked the beginning of the process of enhanced guarantee of civil and political rights, in addition to other rights, within a pluralistic context.

Thus, according to article 9 of the Constitution, the citizens of the Republic of Macedonia are equal in their freedoms and rights, regardless of sex, race, colour of skin, national and social origin, political and religious beliefs, property and social status. All citizens are equal before the Constitution and law. Article 16 guarantees the freedom of personal conviction, conscience, thought and public expression. Freedom of speech, public address, public information and free establishment of public information institutions is guaranteed, as well as the free access to information and freedom of reception and transmission of information. Article 19 guarantees the freedom of religious confession.

Article 20 guarantees the freedom of association. Article 21 guarantees the right to assemble peacefully and to express public protest without prior announcement or a special license. The exercise of this right may be restricted only during a state of emergency or war.

Article 22 of the Constitution regulates the right to vote. Thus, every citizen of 18 years of age acquires the right to vote. The right to vote is equal, universal and direct, and is exercised at free elections by secret ballot. Persons deprived of the right to practice their profession by a court verdict may not exercise a right to vote.

The right to vote, as regulated in Article 22 of the Constitution, has been described in the Election Code⁸¹ as well. Thus, article 3 of the Election Code prescribes that the President of the Republic, MPs, council members and municipal mayors are elected at general, direct and free elections, by secret ballot. Also, the voters may never be called to account for voting, nor may be required to publicly say who they voted for or why they did not vote. The

81 Official Gazette No 40/06.

Constitution guarantees the opportunity, even though it is hardly used, for citizens to propose adoption of laws.

With regard to the right to be elected, article 6 of the Election Code determines that every citizen of the Republic of Macedonia has the right to vote if they are of 18 years of age, are free from restrictions to practice their profession and have permanent residence at the constituent district, municipality or the City of Skopje, where the election is taking place. According to article 7 of the Election Code, a candidate for President of the Republic may be a person who meets requirements set for election of a President of the Republic stipulated in the Constitution. In addition, every citizen of the Republic of Macedonia has a right to be elected as MP, council member and mayor if they are of 18 years of age, are free from restriction to practice their profession, are not serving prison sentence for committed crime and are not convicted by an effective court ruling to at least six months prison sentence. In addition, every citizen has the right to be elected as council member and mayor if they have permanent residence in the municipality or the City of Skopje where the election is taking place.

In addition, according to article 23 of the Constitution, every citizen has the right to take part in performing public service. Article 24 regulates that every citizen has a right to petition state bodies and other public services, as well as to receive an answer. A citizen cannot be called to account or suffer adverse consequences for positions expressed in petitions, unless they entail the committing of a criminal offence.

According to article 29, foreign subjects enjoy freedoms and rights guaranteed by the Constitution in the Republic of Macedonia, under conditions regulated by law and international agreements. The Republic guarantees the right of asylum to foreign subjects and stateless persons expelled due to their democratic political convictions and activities. Extradition of a foreign subject can be carried out only on grounds of a ratified international agreement and on the principle of reciprocity. A foreign subject cannot be extradited for political criminal offenses. Acts of terrorism are not regarded as political criminal offenses.

According to article 50, every citizen refer to protection of freedoms and rights stipulated by the Constitution before courts and the Constitutional Court of Macedonia, in procedures based upon the principles of priority and urgency. Judicial protection of the legality of individual acts of state administration, as well as of other institutions exercising public authority, is guaranteed. A citizen has the right to be informed on human rights and basic freedoms and may actively contribute, individually or together with others,

to their promotion and protection.

The right to public assembly, guaranteed by Article 21 of the Constitution is additionally explained in the Law on Public Assembly⁸². According to article 2 of this law, public assembly, as defined in this Law, shall be assembly at outdoor or indoor space, for the purpose of achieving entertaining, cultural, religious, humanitarian, social, political, economic, sports and similar interests of citizens, that has been organized for public expression of thought or protest.

Freedom of religion, guaranteed by Article 19 of the Constitution, has been additionally described in the Law on Religious Communities and Religious Groups⁸³. According to its article 2, religious communities and religious groups are free to perform religious activities and rites. The article 4 forbids for any citizen to be forced or prevented in any way to become or be a member of a religious community or religious group. Citizens may not be denied rights they have under the Constitution and law, due to religious beliefs, belonging to a religious community or religious group, performing or participation in performing religious rights and other types of expression of faith. Expression of religion or belonging to a religious community or religious group does not exempt citizens from duties under the Constitution, laws and other regulations.

Free access to information, guaranteed in Article 16, Paragraph 3 of the Constitution, has been additionally described in the Law on Free Access to Information of Public Character⁸⁴. Thus, according to article 9, holders of information are obliged to regularly keep and update the list of information at their disposal and to publish them in manner available to the public (internet page, announcement board and other). With regard to the oral or written request, article 12 regulates that the request for access to information may be oral, written or electronic. Each individual, on grounds of request, has a right to access to information from the holder of available information, by means of insight, copy, photocopy or electronic copy.

One may conclude, then, that the legislation concerning the fundamental political rights in Macedonia does not contain provisions with a discriminatory effect upon the persons belonging to small ethnic communities. Although it is difficult to argue that any provision concerning direct or indirect discrimination can be traced, it will be shown further in the analysis that the above guarantees and the compliance with the international human rights mechanisms are far from sufficient to provide ECVRD with a satisfactory

⁸² Official Gazette of the Republic of Macedonia no. 55/95.

⁸³ “Official Gazette of the Republic of Macedonia” no. 35/97.

⁸⁴ “Official Gazette of the Republic of Macedonia” no. 13/06.

level of public participation.

3.2. Freedom of political association/ political parties

According to article 20 of the Constitution, the citizens are guaranteed their freedom of association to exercise and protect their political, economic, social, cultural and other rights and convictions. Citizens may freely establish associations of citizens and political parties may join them or resign from them. Programs and activities of civil associations and political parties may not aim toward violent destruction of the constitutional order of the Republic, or to incite or call upon military aggression or ethnic, racial or religious hatred or intolerance. Military or semi-military associations which do not belong to the Armed Forces of the Republic of Macedonia are prohibited.

The right to association, guaranteed by the Constitution, is additionally described in the Law on Political Parties⁸⁵ and the Law on Association of Citizens and Foundations⁸⁶. The Law on Political Parties stipulates in its article 2 that a political party is a voluntary organization of citizens, established for the purpose of exercising and protection of political, economic, social, cultural and other rights and convictions, as well as enabling the participation in the process of making political decisions when participating in the government. In addition, political parties implement their goals through democratic establishment and expression of political will through participation in elections, as well as in various democratic ways. According to the article 3, programs, statutes and activities of the political parties may not aim to destruct violently the constitutional order of the Republic of Macedonia; incite or call upon military aggression and spread national, racial or religious hate and intolerance. Article 4 regulates that political parties, in their activities, implement the principle of gender equality in access to the availability of office within a political party. According to article 5, any discrimination on grounds of membership or non-membership into a political party is forbidden. Article 6 regulates that the political parties are equal before the Constitution and law. Political parties are guaranteed their freedom and independence in acting and establishing their internal structure, goals and choice of democratic forms and methods of action. Also, political parties may not form military or semi-military structures within their internal organization. According to article 12, membership in a political party is

85 Official Gazette No. 76/04.

86 Official Gazette No 52/10.

voluntary and each member may freely resign from a political party.

According to article 10 of the Law on financing of the political parties⁸⁷, the amount gained by each party depends on the number of gained votes and mandates during the previous elections. Having in mind that the political parties of ECVRD are smaller, that means that they gain smaller amount from the budget. It is difficult, however, to argue that this is a case of discrimination, as the criteria envisage that 30% of the total amount is divided equally among all political parties within or outside the Parliament which have gained 1% of the votes of the citizens who have voted. It is possible that some sort of additional benefit is envisaged for the political parties of ECVRD who are very small, whose members are frequently impoverished and who may be in great need for additional funding. This sort of a benefit may contribute to the democracy in the State. However, even without this kind of regulation, it is not possible to detect discrimination with regard to the financing of the political parties.

The overall conclusion is that there are numerous political parties in Macedonia, based on ethnic identity, as well as parties who are not mono-ethnic. It is difficult to argue that the legislation concerning the political parties and their funding discriminates the ECVRD. On the contrary, there are political parties which have been founded by ECVRD. Yet, the existence of these political parties does not provide for an effective participation in public life. We will turn now to the electoral system and other issues in order to find out more on the causes of the political position of ECVRD.

3.3. Legislation concerning the election system

Electoral model

The Parliament of RM consists of 123 deputies, out of which 120 are elected according to a proportional model. The territory of the State is divided in 6 constituencies and in each constituency 20 deputies are elected. The number of electors in one constituency can vary maximum -/+ 3%, in accordance with the average number of its electors. Three more deputies are elected in accordance to the proportional model – one out of the three constituencies; Europe and Africa, North and South America, and, Australia and Asia⁸⁸. The citizens of RM doing temporary work, or residing in a for-

87 Official Gazette No 76/04.

88 Law on Amendment of the Election Code, article 2, Official Gazette No 136/08.

eign country, vote for all of the three, through diplomatic or consular offices. The election of the council members is done on the territory of each municipality and in the city of Skopje, in accordance to the proportional model. The number of the council members depends on the number and size of the municipality. The distribution of the deputy's seats, as well as the seats of the council members is done in accordance with the D'Hondt formula.

Several mechanisms concerning the minority rights have been envisaged. Thus, due to the changes introduced in 2001, with reference to laws directly affecting culture, language use, education, personal documents and use of symbols, the Assembly makes decisions by a majority vote by attending MPs, and in addition there must be a majority of votes by attending MPs who are members of non-majority communities in the Republic of Macedonia. Disputes regarding the application of this provision shall be resolved by the Committee on Inter-Community Relations⁸⁹.

The Assembly also establishes a Committee for Inter-Community Relations. It consists of 19 members of the Assembly out of which seven Macedonians and seven Albanians and one Turk, Vlah, Roma, Serb and Bosniak. If a community lacks representatives in the Assembly, the Ombudsman, in consultation with relevant representatives of such communities, may propose members of the Committee.

The Assembly elects the members of the Committee. The Committee considers issues of inter-community relations in the Republic and provides opinions and proposals for solutions. The Assembly is obliged to take into consideration opinions and proposals of the Committee and to make respective decisions. In the event of a dispute regarding the voting procedure implementation in the Assembly, prescribed in Article 69, Item 2, the Committee decides by majority vote whether the procedure shall be implemented⁹⁰.

Despite of these mechanisms, there is space for improvement of the position of ECVRD. It has been explained in the previous section that the right to be elected as representatives at both local and national level is granted to all citizens. Yet, it may be concluded that this right cannot be exercised by everyone equally. Members of groups of individuals with special needs, individuals who belong to the group of the poor, the uneducated, the young people and the women and ECVRD are not sufficiently present as political representatives. This is due to the poor level of self-organization of such categories of citizens and to the general political culture in the country, as

89 Amendment X of the Constitution of RM.

90 Amendment XII of the Constitution of RM.

well as the degree of openness of political parties to such groups of citizens, since parties are the greatest political mobilizers and representatives of the interests of such groups. Insufficient representation of different civil structures may be one of the reasons for the feeling of exclusion from political life of such groups. For illustration, the ethnic structure of the Assembly and the composition of MPs for the term 2008- 2012, with total number of 120 representatives⁹¹ shows that there are 67, 5% Macedonians, 24,1% Albanians, 0,8% Turks, 0,8% Roma, 3,30% Serbs, 0,8%, Bosniaks, 1,6% Vlah and 0,8% other. The stated statistical data lead us to conclude that ethnic communities, except Turks and Roma, are adequately represented. The representatives of Ashkali or Egyptians are not represented at all.

The Electoral Code does not envisage a certain census/eliminatory threshold /prohibitory clause, in other words, a minimal percentage of votes that have been won, in order to permit them to be calculated – which is extremely advantageous for the smaller political parties, like those founded by ECVRD. At the moment, the Macedonian legislation does not envisage special quotas (guaranteed seats) for those belonging to the small communities neither in the case of the election of deputies, nor in the case of the election of council members. Introducing quotas is a solution which guarantees a certain number of seats for those belonging to the small communities.

An improvement of the representation may be achieved through introducing a single electoral unit for the entire state during the parliamentary elections. This kind of solution may reduce the problem of losing the votes on the level of constituency. Such development may greatly enhance the opportunities of the small political parties whose voters live dispersed throughout the State, such as the Roma. It may not be a good solution, however, for the political parties whose voters live in just one part of the state, such as Ashkali.

On local level, the **Law on local Self Government**⁹² from 2002 intended to introduce the principle of active participation in the municipalities through sharing of the executive power. However, this goal is not entirely fulfilled. Namely, the elections on the local government provide concentration of the executive power to one political figure- mayor, who has won the majority of citizens' votes. In order to soften this principle of pure majority of the constituting executive power, an Assembly for inter-ethnic relations and other professional structures within the frameworks of the municipality administration and responsible for the minority communities have been

91 According to the Report on the work of the Assembly of Republic of Macedonia for the period 21. 06 2008- 31. 12 2008.

92 Official Gazete No 5/02.

introduced.

The provision concerning the Commission on the inter-ethnic relations⁹³ stipulates that such a commission may be established in the municipality where at least 20% of the population belong to a certain ethnic community (according to the data established by the last census). Each ethnic community which lives in the municipality will have an equal number of representatives in the commission. The model of election of the commission members is regulated by a statute. The commission gives opinions and suggestions on the issues concerning the relations among the communities living in the municipality. The municipal council is obliged to take into considerations the opinions and the suggestions of the commission.

Partly, the commission has embedded the principle of proportionality. However, within the councils, the right to a veto is not envisaged. Thus, the regulations on culture, the use of languages and alphabets which are used by less than 20% of the citizens in the municipalities, the confirmation and use of the emblem and the flag of the municipality are elected by the majority votes of the members that have voted.

Macedonia has frequently been praised for the fact that the representatives of Roma minority get seats in the Assembly. They can also be municipal mayors and sit in the municipal councils. However, in order to obtain the presence of ECVRD, an introduction of a strict system of quotas/guaranteed seats is necessary.

Another severe difficulty is the practice of buying votes. The Criminal Code⁹⁴ determines the punishments (financial punishment or prison for a maximal duration of 3 years) of the person offering, giving or promising a present in exchange for a vote. Article 162 determines the same punishment for the voters which accept any kind of benefit in order to vote in certain manner. In addition, article 160 of the Criminal Code determines punishment for those who obstruct the voting rights of the citizens. The prevention of the practice of voting in the name of another citizen is also regulated by this law (article 161). During every election, various observers argue that the practice of buying votes exists among the ECVRD electorate, yet, the justice system in the country has not responded adequately to this deplorable situation. This is probably the most pressing problem regarding the electoral rights of ECVRD. Here, one can detect the most discouraging features of the Macedonian legal landscape – although the Criminal Code forbids this practice, the application of the law is not satisfactory. On the

93 Law on Local Self-Government, article 55.

94 Official Gazette No 37/96, 80/99, 4/02, 43/0319/04

side of ECVRD voters the poor socio-economic position, as well as undeveloped political culture make them an easy pray to this sort of buying. A further research and action on these issues is necessary.

One may conclude, then, that there is a certain number of ECVRD who have won a seat in the Parliament and some local units. The result is one mayor of Shuto Orizari, Minister without portfeille and a Director of the Service of protection and rescue. A quote system may further enhance their representation in these bodies. An introduction of a single electoral unit for the entire state may also be a beneficial solution for the proportional representation, in cases when ECVRD live dispersed throughout the State.

With regard to the overall participation in the state administration, the situation is not satisfactory. Precise data lack, but ECVRD are largely not employed in the public administration. These are issues of political will and political culture. It is also true that many of them are not educated sufficiently in order to obtain these employments. Here, introducing measures of positive action may bring a result. There is a number of ECVRD NGO's which may work toward improvements, mostly through international help and projects. Yet, the educated elite may need years to bring some benefit to the situation of ECVRD if these endeavors lack the support of the overall Macedonian system. The contrast with the position of Albanians is obvious. To them, the Ohrid Framework Agreement guarantees not only seats in the Parliament, but also range of rights regarding the municipal level. Also, their employment in the public administration is enhanced.

5. Regulation concerning the geographic boundaries of electoral districts

During 2004, the Law on territorial organization⁹⁵ has been voted. According to it, 83 municipalities and the city of Skopje as a separate unit have been formed. This Law rose huge political criticism, as it was considered that the so called political geometry permitted the Albanian community to group itself in municipalities where it would be able to be a majority or more than 20% - that meant a higher representation of this community within the municipality councils and employment of the rights concerning the use of the language. Still, the small ethnic communities have a various degree of representation in different municipalities. That leads to a various

95 Official Gazette No 55/04.

degree of representation within the municipality councils.

On a municipality level, the proportion is not the same as on the national level. Depending on a certain region, the minorities are differently dispersed from one municipality to another, although they are not equally/proportionally represented in the municipality councils. For example, the Turkish community has more than 8% in Vrapchishte, Valandovo, Gostivar, Demir Kapija, Karbinci (18%), Kicevo, Radovish (14%), Resen and Studenichani (19%). The Roma population has more than 5% in Kochani, Vinica, Prilep, Kicevo and Pehchevo. The Serbian community has more than 10% in Dojran, Rosoman and Staro Nagoricani, more than 17% Boshnjak in Petrovec.

The Electoral Code determines the borders of the electoral units in case of Presidential and Parliamentary elections. In the case of elections on a local level, this is regulated by the Law on territorial organization and local self-governance. Thus, the borders are decided through law, directly by the Assembly, through qualified majority and, also, double majority. In this way, the will of the minorities has been observed. Eventual changes of the municipal borders would probably not have a dramatic effect on the number of Roma who participate, although it would, understandably, depend on the exact municipal map which is offered.

6. Ensuring fair conduct of elections

The electoral process is coordinated by the State Electoral Commission. On the municipal level, this task is assigned to the Municipal Electoral commission⁹⁶. The election of the members of the State Electoral Commission is done by the Assembly in accordance to the principle of appropriate and equal representation. However, there are no representatives of ECVRD in this body.

The election of the members of the Municipal Electoral Commission and the election committees, in the municipalities inhabited by at least 20% of citizens who belong to the other communities, is also done in accordance to the principle of appropriate and equal representation of all communities. The members of the Municipal Electoral Commission are chosen through the method of incidental choice. The members of the electoral organs should consist of at least 30% women.

96 Article 17 Election Code published in Official Gazette No 40/06

During the elections, in the municipalities where at least 20% of the citizens speak an official language which is different than Macedonian, the Municipal Electoral Commission and electoral committees officially use the Macedonian language and its alphabet, as well as the language and alphabet spoken by the citizens of the community which forms at least 20% of the inhabitants of that municipality.

During the local elections, the person who is in charge of the list in the unit of local self-governance in which at least 20% of the citizens speak an official language which is different than Macedonian, the application of the candidate list or the list of the candidates for a mayor is done in the language and alphabet used by the citizens in that unit of self-governance.

During the Parliamentary elections, the person who is in charge of the lists in the electoral units where at least 20% of the citizens speak an official language different than Macedonian, the application of the candidate lists is done in Macedonian language and its Cyrillic alphabet, as well as in the language and alphabet used by the citizens of that unit of local self-governance.

Voting instructions are printed in Macedonian and its Cyrillic alphabet, as well as in the languages and alphabet of the communities listed in the Preamble of the Constitution of the RM. The voting ballot is printed in the Macedonian language and its cyrilic alphabet. For persons belonging to the communities, the name of the applicant of the list and the name and family name of the candidate or the bearer of the list are written in Macedonian and its Cyrillic alphabet and in the language and alphabet of their own community⁹⁷. In the municipality where at least 20% of the citizens speak an official language different than Macedonian, the voting ballots are printed in Macedonian language and alphabet, as well as in the official language and alphabet used by the citizens of that municipality. It seems that the above regulation provides advantages for the minority population.

The **procedure for protection of the electoral right** is an urgent procedure. The applicant of the list or the elector can bring a complaint to the State Electoral Commission or, during the local elections, to the Municipality Electoral Commission. In case that he is not content with the decision of the commission, he may bring a complaint to the Administrative court⁹⁸. In all of these bodies, the members usually belong to the Macedonian and Albanian ethnicity.

The possibilities for complaint have not been adequately used by the

97 Article 58 Paragraph 2, Election Code

98 According to articles 147-150 of the Electoral law and article 38 of the Amendment Law no 136/08.

ECVRD population. Namely, many of its members have been omitted from the voting lists, due to lack of personal documents, or for other reasons. The cases of buying votes may also be a matter of concern for the electoral commissions, apart from the regular criminal court ruling. The difficulties with the complaint procedure during the election form just a part of the complex issue of the inefficient justice system in the country.

7. The legislation and institutional arrangements concerning the position of emigration with regard to elections

This is the most serious issue considering the political rights of ECVRD, as numerous analyses suggest that many members of ECVRD communities in Macedonia have no documents for personal identification.

The active or passive electoral right has not been envisaged for any category of foreigners – migrants, refugees nor persons without citizenship. This rule applies to both national and local levels. The Macedonian citizens who temporarily work or reside abroad or reside have the right to vote within the Macedonian diplomatic and consular offices⁹⁹.

Numerous analyses show that the Macedonian State has not managed the issue of stateless ECVRD. It is still unclear how many of them do not possess all or some of the personal identification documents. What is worse, many of them have not obtained citizenship, which is the necessary precondition for acquiring voting rights. The case is especially delicate for the ECVRD whose status is not regulated, due to the resolution of former Yugoslavia¹⁰⁰. It should be noted that this is the most serious issue regarding the political rights of ECVRD and it needs an urgent action.

8. Elections and participation of ethnic communities

The Ohrid Framework Agreement changed the scope of work of the main institutions for human rights protection and their composition and procedures. It has provided for an extension of powers of the Ombudsman

⁹⁹ Article 2, Law on Changing of the Election Code No 136/08

¹⁰⁰ “Roma and citizenship in Macedonia”, conference entitled: “Citizenship theories and practices in Former Yugoslav States”, organized by CITSEE, Faculty of Law, University of Edinburgh, UK, June 2010.

to include the area of rights of members of the communities¹⁰¹. Equally, the establishment of a Committee Inter-Community Relations in the Assembly ensured a seat for the Roma in it¹⁰². Mandatory representation of communities in the National Court Council was also ensured¹⁰³, as well as a mandatory representation of communities in the Constitutional Court¹⁰⁴. There are no ECVRD in these institutions. According to the Law on prevention and protection of discrimination, a Commission for protection from discrimination has been formed. Together with the Ombudsman, it provides a channel for complaints on ethnic discrimination. In the future, a moderate improvement may be expected.

9. The media coverage during elections

Article 16 of the Constitution guarantees the freedom of personal conviction, conscience, thought and public expression. Freedom of speech, public address, public information and free establishment of public information institutions is guaranteed, as well as the free access to information and freedom of reception and transmission of information. The right to respond in the mass media is guaranteed. The right to a correction in the mass media is

101 According to amendment XI, the Assembly elects the Ombudsman by a majority vote of the total number of representatives, and in addition there must be a majority of votes by representatives who are members of non-majority communities in the Republic of Macedonia.

The Ombudsman shall protect constitutional and legal rights of citizens, which have been violated by bodies of the state administration and by other bodies and organizations with public mandates. The Ombudsman shall give particular attention to safeguarding the principles of non-discrimination, adequate and equitable representation of members of the communities in state government bodies, bodies of units of local self-government and public institutions and offices.

102 According to amendment XII, the Assembly shall establish a Committee for Inter-Community Relations. It shall consist of 19 members of the Assembly out of which seven Macedonians and seven Albanians and one Turk, Vlah, Roma, Serb and Boshnak. If a community lacks representatives in the Assembly, the Ombudsman, in consultation with relevant representatives of such communities, shall propose the rest of the members of the Committee.

The Assembly elects the members of the Committee.

The Committee considers issues of inter-community relations in the Republic and provides opinions and proposals for solutions. The Assembly is obliged to take into consideration opinions and proposals of the Committee and to make respective decisions. In the event of a dispute regarding the voting procedure implementation in the Assembly, prescribed in Article 69, Item 2, the Committee shall decide by majority vote whether the procedure shall be implemented.

103 According to amendment XIV, three of the members shall be elected by a majority vote of the total number of Representatives, and in addition by a majority of the votes of the total number of Representatives who are members of non-majority communities in the Republic of Macedonia.

2. This amendment shall make addition to Item 2 of Article 104 of the Constitution of the Republic of Macedonia.

104 According to amendment XV, Judges of the Constitutional Court are appointed by the Assembly. The Assembly elects six of the judges of the Constitutional Court by a majority vote of the total number of Representatives. The Assembly elects three of the judges by a majority vote of the total number of Representatives, and in addition by a majority of votes of the total number of Representatives who are members of non-majority communities in the Republic of Macedonia. The mandate of the judges is nine years without right to further appointment.

guaranteed. The right to protect a source of information in the mass media is guaranteed. Censorship is prohibited.

There is no limitation regarding the use of the minority languages during election campaign like meetings, TV spots, TV or radio self- presentation, internet sites, blogs, print propaganda etc. There are not obstacles for access to both paid and unpaid media programs.

Conclusion

The ethnographic variety which exists in Macedonia makes the issue of proportional representation particularly complex. Although the commentators usually refer to the undeveloped political culture and democracy, as main difficulties, it is fair to note that the just reconciliation of the interests of such diverse ethnicities that live in the country may present a serious challenge for any political entity, no matter how mature it is. Having said that, we can still draw some conclusions regarding the nature of the political participation in the country and point out its most pressing shortcomings.

First of all, it is evident that since 1991, the Preamble of the Macedonian Constitution referred to numerous ethnicities living in the country. It was convenient for the Roma, although the smaller ethnicities have not been mentioned at all. The changes introduced in 2001 redefined the nature of the state in favor of minorities. The insistence of the ethnic belonging convened the minorities, although the real benefits were gained only by the Albanian minority.

A wide range of international legal instruments with regard to the minority rights, as well as equitable political participation have been signed and ratified. The minority rights have been implemented in a wide range of laws, as well as Government documents.

There is little evidence on discrimination with regard to the fundamental political rights. Equally, the legislation concerning the political parties and their funding is not discriminatory. On the contrary, there are numerous political parties of ECVRD in Macedonia. Yet, they seem to contribute insufficiently to the overall political participation. Thus, according to many sources discrimination occurs with regard to the rules on the conduct of census, as well as regard to the census data. In this process, it is exactly the ECVRD who have been discriminated.

The electoral model is proportional and the votes are counted through the D'Hondt formula. In the Assembly, double majority (which benefits

the minorities) is envisaged for some sorts of legislation. Representatives of Roma have a seat in the Parliament, although they have not been adequately represented numerically. The lack of quotas prevents the presence of other ECVRD in the Assembly, thus putting into question the massive efforts made by the State to accommodate the minority problematic. On local level, numerous measures concerning the minority rights have also been envisaged and there are some mayors and local council members who belong to ECVRD. However, the overall participation of these ethnicities in the public administration is remarkably low.

With regard to the elections, the most pressing issue is the practice of buying votes which has been frequently observed. Although the legislation regulates these practices, there is little application and the situation remains unchanged in the reality. One may also note the existence of various mechanisms aimed to prevent discrimination – apart from the courts, the Ombudsman and Commission on prevention and protection from discrimination exist. The last two are novelties in the Macedonian system and they would need some time to produce an effect. One may expect that the ongoing reforms of the overall court system in Macedonia will benefit the ECVRD problematic in the future as well. One urgent issue is the lack of citizenship and other personal documents.

Here, an action of the State authorities is needed, as without these documents, numerous members of ECVRD are prevented to exercise their vote. The overall conclusion is that it is hardly possible to detect direct discrimination in the legislative acts. The application of law is problematic, especially with regard to the buying of votes. The single electoral unit and/or a quota system may bring a result, as well as a strengthened justice system. The equitable representation in the public administration is lacking. Yet, it seems that the real causes of insufficient and inefficient political participation are the poverty, lack of education and inadequate political culture of ECVRD and all of these issues are beyond the legal considerations.

Recommendations

It is necessary that the documents issued by all State Institutions, such as, for example, the National Strategy on the Roma, refer consistently on the Ashkali and Egyptians.

It is necessary to include representatives of ECVRD in the census commissions on all levels. If the census has been conducted properly, the census

results may confirm the existence of much larger ECVRD communities. The numbers are in themselves an important argument when it comes to the proportional representation of ethnic communities.

It is necessary to obtain statistical data on the existence of ECVRD without citizenship and other personal documents. These data will facilitate the process of granting the necessary documents. These issues have a direct effect on the exercise of political rights. However, the statistics may also be used to support the claims that indirect discrimination on ethnic ground has occurred.

Equitable representation in the Assembly may be achieved through quota system for ECRD. Alternatively, introducing a single constituency may improve the representation of ECVRD who live dispersed throughout the State, but it is not going to enhance the representation of those living in just one part (constituency) of the State.

The State should take particular care to introduce measures of positive action with regard to the employment of ECVRD population in the Institutions.

The pressing issue of the buying of votes should be further investigated and supported by statistical data. A consistent and coordinated action by the justice system and application of the sanctions provided by the law is necessary. In addition, the voting in the polling stations in places populated by ECVRD must be a subject of strict monitoring and any violation of their rights should be taken in consideration by the electoral commissions.

**Assessing the Political Participation and the Electoral Behavior of
Ethnic Communities Vulnerable to Racial Discrimination in the Re-
public of Macedonia**

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Introduction

The social exclusion and the vulnerability to racial discrimination can hamper ethnic communities' perspectives of full political integration in the society. The exposure to prejudices and stereotypes damage the chances for the communities' political participation; deprivation off basic goods can lead the members of these communities to trading their votes for a shamefully low price; the lack of suitable human resources can lead to the rise of a communal political elite with questionable interests and ideals and finally there is always the risk of being victimized by the mercilessness of the struggle for political power. Additionally, the marginal status of the socially excluded communities is also accompanied by sheer absence of the institutions of the state among them.

In the case of Macedonia, the official treatment and the political participation of ethnic communities vulnerable to racial discrimination (ECVRD) have yet to face serious analytical scrutiny. The major analytical trends, by generalizing the issues of social exclusion and racial discrimination under the umbrella of the Roma question , so far have not managed to emancipate from the mainstream political discourse which simplifies the rather complex problem of social exclusion as a an ethnic one, ostracizing non Roma subjects prone to racism from the mainstream discourse.

This paper fills in this gap in the analytical work by providing an account on the perspectives and challenges for fair political participation of the ethnic communities vulnerable to racial discrimination (ECVRD) in the Macedonian context. It assesses the general position of the ECVRD in the regional and the local discourse; it examines several aspects of their political representation as well as the patterns of cooperation with the major political parties in the country.

Identifying the ECVRD in the Republic of Macedonia

The cultural milieu of Southeast Europe is composed of myriad of different peoples and discourses. Even though nation building projects, attempted genocides and assimilation policies aimed at homogenizing the population throughout the centuries, the plentiful diversity of the demographics of the region has persisted. In most of the countries has been acknowledged as an inherent part of the region's image. Macedonia has been one of the states in which multiculturalism has been at least formally adopted as the official mode of governance, although its practice is yet to be discussed.

Even though Macedonian institutions have embraced multicultural principles as the foundation of the Republic's contemporary political system, problems of the vulnerability to various kinds of discrimination remain unaddressed. One such aspect has been the proneness to racial discrimination and in general, the awareness of the reality of the Southeast European and in particular, the Macedonian case, that besides exhibiting a plethora of ethnicities and faiths, the demographic structure is varicolored as well, comprised among others, by people that can be visibly distinguished by their compatriots, most often by the criterion of skin color. For instance, Southeast Europe's multicultural demographics is in most of the cases perceived as two-dimensional, grounded on the ethnic and religious cleavages¹.

The problem of vulnerability to racial discrimination and the perpetuation of racial-based stereotypes in the regional context is deeply rooted in the social context, as the population vulnerable to it is not comprised of labor or political migrants from different continents as in the case of Western Europe, but in most of the cases it is comprised of members of more or less native communities, often perceived as autochthonous or indigenous, having moved in the region long before the emergence of the modern political structures. The awareness about the racial background to the issue is itself not raised among many of the members of the ECVRD, and therefore, not often agitated in the public debate.

The operating definition of ECVRD is in compliance with the definitions of racism and direct or indirect racial discrimination provided by the European Commission on Racism and Intolerance, the independent human rights monitoring body established by the Council of Europe. Therefore, for an ethnic community vulnerable to racial discrimination will be considered any ethnic community whose members, individually or reified as a collective category, are

¹ Andrew Reynolds, *Electoral systems and the protection and participation of minorities* (Minority Rights Group International, 2006), p. 19

exposed to a) “any differential treatment based on a ground such as race, colour, language, religion, nationality or national or ethnic origin, which (...) does not pursue a legitimate aim” or “if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be realized”, thus this treatment being unjustified; and b) cases where an apparently neutral factor such as a provision, criterion or practice cannot be as easily complied with by, or disadvantages, persons belonging to a group designated by a ground such as race, colour, language, religion, nationality or national or ethnic origin, unless this factor (...) pursues a legitimate aim and if there is a reasonable relationship of proportionality between the means employed and the aim sought to be realized”².

This being said, three main ethnic communities, plus one smaller, whose members individually or collectively are prone to such treatment, can be identified in the context of the Republic of Macedonia: the Roma, the Egyptians and the Ashkali. The literature also mentions the group of Kovachi, which due to the insignificant sources is not a subject of an in-depth analysis. The assumption of the existence of ECVRD, however, does not exclude the existence of individuals belonging to other or no ethnic communities, native or immigrant, being exposed to racism and racial discrimination in the Republic of Macedonia.

Other ethnic communities occasionally mentioned as prone to racial discrimination are the Albanian, Turkish and Torbesh ones. However, due to the contextual differences between the Albanians, Turks and Torbeshes on one hand, and the ECVRDs on the other, this paper does not analyze the former three as cases of ECVRD, although it does not exclude the possibility that certain members of these communities might be exposed to racial discrimination. The main reason for this is that the defining aspects of the Albanian, Turkish and Torbesh distinctiveness does not lie in the separate racial traits, but rather in the religious and in the case of the former two, the linguistic peculiarity.

Roma

The largest ECVRD in Macedonia are the Roma. The Roma are transnational people or group of peoples that comprises a significant portion of the population of the whole region of Central, Eastern and Southeast Europe, and being recent migrants to Western Europe and North America. The estimations about their total number in the World vary between only a few and

² ECRI. General Policy Recommendation no. 7, on national legislation to combat racism and racial discrimination, adopted on 13 December 2002 (Strasbourg: Council of Europe, February 2003), p. 5

more than ten million Roma worldwide.

While the criteria for their definition are vague with regards to the different language different Roma groups speak across different regions, and the different cultural traits among them, the definition of Roma has been somewhat auto-referential. The main determinant of a person being categorized as Roma is usually based on his or her own ethnic self-identification as one, although non-Roma people, especially members of certain ECRVD are often perceived as Roma due to the lack of public familiarity with the distinction between the different ethnicities. In Macedonia, the census of 2002 has come up with a figure of more than 52,000 citizens who have been registered as Roma, which comprises more than two and a half percent of the total population of the country. Nevertheless, this figure is suspected to be flawed. First of all, due to the problems with obtaining their identification documents, in the first place their citizenship and residence certificates, many Roma (an estimate of 100,000 – 150,000, which is much more than the official figure) have been left out of official evidency. If this estimate is proven true, it could make Roma even more significant political factor occupying about ten percent of the total population of the country. Secondly, at present, many Egyptians and Ashkali, claim to have been unjustly imposed the Roma identity which was onerous for the free expression of their personal identification. If these assumptions are proven true, then the total number of Roma population might not be dramatically increased; yet, it would rather mean that Macedonia has a large number of diverse ECVRD. In the Republic of Macedonia, their ethnic distinctiveness has been recognized and Roma are listed as one of the constitutive “peoples” in the Preamble of the Constitution of the Republic of Macedonia. As it will be elaborated, Roma are also subjects to many affirmative measures in order to increase their general socio-economic status thus contributing to achieving full equality of the citizens of the Republic of Macedonia.

Roma are territorially dispersed throughout the whole territory of the Republic of Macedonia, although several areas of dominant Roma concentration can be identified. The paradigmatic example for their territorial concentration is the municipality of Shuto Orizari, the largest Roma-dominated municipality in Europe, in which Roma comprise more than two thirds of the population.

Yet, the Roma are in general one of the most poverty-stricken and destitute categories in the country, occupying the bottom of the social hierarchy. Many of them live in precarious conditions, dwell in slum housings and to a great extent are excluded from the public life. The insufficient access

to health care, education and other public services, make Roma populated areas cultural ghettos in which the rule of law and the authority of state institutions are nonexistent. In this respect, the perspectives of Roma for finding a job and having a decent life are against the odds, and therefore many Roma are forced into illegal and semi-legal activities or migration abroad as their last resorts for improving the utterly deteriorated and undignified living conditions. For instance, one of the most recent trends in the Republic of Macedonia is the desperate attempt primarily of Roma to seek asylum in the countries of Western Europe. Especially exacerbated is the condition of Roma women and children; due to the lack of sexual education and family planning assistance, Roma families reproduce at a very high rate and are not being able to provide descent conditions for their posterity. The situation of thousands of Roma, as it will be later further elaborated, is ultimately compromised by being apatride (the problem of being stateless or not in a possession of citizenship) due to the incapacity to provide proofs of residency or other evidences of citizenship.

Roma have been victims of structural discrimination years for a long period of time. The general stereotype of them has been based on their physical looks, and associating them with negative traits of human behavior. For many Roma, it is virtually impossible to find a job (it is estimated that the unemployment level among Roma is at least twice the national average, meaning more than 70%). The fact that many of the Roma live in conditions that are below any dignity and that they have lack of education are usually prescribed to their lazy nature and limited capacity, rather than on the decades of systematic isolation. While there have been attempts to alter this image of the Roma through politically correct cultural products³, the negative image has persisted and on top of that internalized by many Roma individuals themselves, who after emancipating from the Roma community attempt to conceal their Roma origin⁴.

Roma's ultimately unfavorable social position in the country has received a special attention by the Government of the Republic of Macedonia, as the Ministry of Labor and Social Policy in 2005 has brought a national Strategy on the Roma of the Republic of Macedonia. The Roma population in the Republic of Macedonia has also received a lot of attention and assistance in various spheres of their public life through the civil society subjects and international organizations, which have supported and implemented projects

³ The paradigmatic case of this is the novel "Beloto Ciganche" by Vidoe Podgorec, in which a non-Roma kid is raised by a Roma community which has passed on him a lot of virtues.

⁴ See Azbija Memedova et al., "Roma's Identity and the Political Arena" in Roma's Identities in Southeast Europe: Macedonia (Ethnobarometer, 2005), pp. 7-18

as part of the general tendency international Decade of the Roma Inclusion. Yet, it should be stressed that, as the Ethnobarometer survey stresses, not all of the Roma share the same social position. Although narrow in scope, Roma elite have emerged in the country. The Roma elite is comprised primarily of two categories of individuals: a) businesspersons and politicians (usually men) who have managed to convert the economic into political capital and vice versa; and b) the new generations of highly educated Roma, many of them with significant international experience, who work in the civil society sector, and in particular in the sphere of human rights and Roma integration in the society.

Egyptians

The Egyptians are the second most numerous ECVRD in the country, and part of a larger, transnational ethnic community dispersed primarily throughout the region of Southeast Europe, with the most significant communities being the ones in Kosovo, Albania, Montenegro and Macedonia. Their separate ethnic self has been gradually acknowledged during the later decades of the Yugoslav era, and Egyptian was finally introduced as an ethnic category in Macedonia in 1991. In the contemporary Macedonian political system, although the Egyptian identification has not been disputed and acknowledged by the institutions, Egyptians are not explicitly mentioned as constitutive people in the Constitution, but rather fall in the category of “others”, along with ethnic Croats, Montenegrins, etc.

The leaders of the Egyptian community in Macedonia estimate its size to about twenty-five thousand, which is only a small share, but for instance nominally larger number than the Vlachs, an ethnic community enjoying the status of a constitutive people mentioned in the Preamble of the Constitution. The official number however, has been said to be around three thousand. According to the Egyptian leaders, the biggest obstacle for the free expression of the Egyptians’ ethnicity are the assimilationist attitudes of the Roma⁵ and to a lesser extent the Albanian community, which is perpetuated by the representatives of the system who consider the Egyptian identification as exotic one. Regarding the prospective census in 2011, the political party Union of Egyptians has demanded that the official census commission as well as the field working groups should include Egyptian representatives.

The key components of the emergence of the contemporary Egyptian ethnic

⁵ One of the key aspects of the politics of Roma identity is the generalization of other ECVRD as Roma sub-categories.

movement have been the disassociation with the general Romani / Gypsy discourse, the construction (or the resurgence) of myths of ancient descent and myths of original remote homeland and the interactive process of Othering, in which the role of the significant Other has been played by the Roma leadership⁶. The disassociation from the general Romani discourse has been a process that has been instigated with the 1974 constitutional changes in the Socialist Federative Republic of Yugoslavia. With the provisions in the Constitution, the absolute freedom to self-definition was granted and led many people, in the first place intellectuals previously defined as Roma, to embrace an alternative, Egyptian identity⁷. This Egyptian ethnic narrative was associated with remote historic episodes and the idea of the direct historical link between contemporary ethnic Egyptians and Ancient Egyptians who migrated to the Balkans millennia ago. This was another point of divergence from the official Roma discourse, as after the 1970s, Roma embraced the narrative of Indian origin and the idea that their remote ancestors moved to Europe during the Middle Ages. Finally, it was especially the Roma political leadership who adopted inimical and sardonic attitude towards Egyptians, accusing them of separatism and mocking on the narrative of Ancient Egyptian origin, thus assuming the role of a hostile Other against which the image of Egyptians was projected⁸. Another, less significant trait of the fortification of the Egyptian narrative was its construction as opposed to the ethnic Albanian identification.

In Macedonia, Egyptians are territorially concentrated in the wider Ohrid region in the western part of the Republic of Macedonia. Their socio-economic status is approximate to the Roma's, as the majority of them are impoverished and deprived off some of the basic needs and social institutions, thus living in perpetual adversity. Nevertheless, unlike in the case of the Roma, there is no separate governmental act that specifically addresses the needs of the Egyptians, and the contribution of the civil society has been modest and seen exclusively in the efforts of non-governmental organizations originating from the Egyptian community. One of the main political goals of the Egyptian political parties and civil society subjects is the inclusion of the Egyptians in the Preamble of the Constitution of the Republic of Macedonia, along with the struggle to mitigate the adverse effects of social exclusion.

6 See Trubeta, Sevasti. "Balkan Egyptians and Gypsy/Roma Discourse", *Nationalities Papers*, Vol. 33, No. 1, March 2005, pp. 71-95; Marushiakova, Elena and Vesselin Popov. "New ethnic identities in the Balkans: the case of the Egyptians", *Philosophy and Sociology* Vol. 2, No 8, 2001, pp. 465 - 477

7 Rubin Zemon. "Balkans Egyptians. A short presentation about their history of identity building, migration waves and ethnocultural characteristics", *Balkan Ethnology* (2003), <<http://www.balkanethnology.org/files/library/Rubin/Balkans%20Egyptians-%20short%20presentation.pdf>> (accessed 29 October 2010)

8 Rubin Zemon. "Differences of prejudices and collective blames toward to the Balkan's Egyptians community and their integration in some Balkan's states", paper presented at the conference Prejudices & Stereotypes are stimulating the racial discrimination in Tirana, 24 February 2006

Ashkali and Kovachi

The Ashkali are another transnational ethnic community, inhabiting primarily Kosovo, Albania and Macedonia. As for the definition of who the Ashkali are, it varies from generalizing them as a sub-Roma or for that matter as a sub-Egyptian community, to the narratives of their distinct Persian, Latin or even Semitic origin⁹. They are territorially concentrated in the Northwestern part of the country, in the wider Polog region and Skopje valley.

Unlike the example of Kosovo, where the Ashkali community has been acknowledged and included in the mainstream political discourse, in the case of Macedonia the awareness about the existence of the Ashkali community is very limited. Even though the Macedonian official attitude is that the institutions are inclusive and acknowledge every self-identification expressed by the citizens, no significant references to the Ashkali community have been met in the official documentation.

The Ashkali share the same fate of social exclusion as the Roma and the Egyptians. Similar to the case of the Egyptians, their distinctiveness as a separate ECVRD has not been taken in account in the development of instruments for alleviation of the adverse reality of social exclusion.

The Kovachi on the other hand, are considered to be another ECVRD, identity-wise proximate to the Egyptians, who have been historically associated with blacksmithing, hence their name. There are no precise data on their size or territorial fragmentation.

Political participation of the ECVRD

The post-2001 Macedonian political discourse

The major overturn of the political system of Macedonia happened in 2001¹⁰, with the signing of the Ohrid Peace Accords to end the military conflict between the Albanian guerillas and the Macedonian army. The enactment of a political-legal, or the so called Ohrid Framework Agreement, has initiated Constitutional changes as well as large-scale structural reforms in the aftermath of the ethnicized military conflict. The Agreement introduced

⁹ Rubin Zemon. Balkan Egyptians and Ashkali History. Pedagogical Factsheets (Council of Europe, c. 2010)

¹⁰ See Natasha Gaber and Aneta Joveska. "Transformation in the Macedonian political system and the inclusion of ethnic groups", South-East Europe Review, no. 1 (2009), pp. 87 – 98

a genuine multicultural discourse with plenty of Lijphartian consociativist hallmarks¹¹.

The main purpose of the reforms instigated with the Ohrid Agreement was to help achieving a balanced representation of the ethnic communities in the institutions of the state and to grant minority rights, intended to alter the image the Macedonian institutions were trying to create in the 1990s, as Macedonia being a nation-state of the Macedonians, where a lot of other peoples reside. The new image of the country in the amended legal acts is the one of a multicultural yet unitary state, based on the principles of power sharing, equal representation and advancement of minority rights.

However, several unintended trends emerged as a consequence of the implementation of the framework agreement. First and foremost, it was the promotion of collective, strictly bound ethnic identities as the ultimate form of political belonging. This has perpetuated the ethnic cleavages in the country and contributed to the strengthening of the concept of ethnic political partisanship, and the idea of ethnic political parties as the most important agents of the ethnic identification. In fact, the Preamble of the Constitution from 2001 onwards, defines Macedonia as a country constituted by members of ethnic communities, rather than as a country constituted by its citizens. Regarding the ECVRD, this has had an ambivalent impact: while the system has enabled the recognition of the distinctiveness and the importance of the ECVRD, at the same time it has perpetuated the same old barriers between the different ethnicities thus delimiting the capacity for full integration of the ECVRD since it does not support the premises of a civic state. Additionally, one should take into account that in line with the ethnicization of the Macedonian society as a whole, where ethnic identification has grown into the major determinant of belonging and political partisanship, this has been reflected into the process of ethnicization of various communities that had been perceived as Roma, in the sense of the development of separate identitarian narratives¹².

The second major unintended consequence of the implementation of

11 For a detailed analysis of the Macedonian political model as well as of the contemporary governance issues see Daskalovski, Zidas. "Macedonia," in Nations in Transit 2010 (Freedom House, 2010)

12 See Memedova et al., op. cit. For the broader phenomenon of ethnicization of the Macedonian society see Holliday, Graham. "From Ethnic Privileging to Power-Sharing: Ethnic Dominance and Democracy in Macedonia". In Sammy Smooha and Priit Jarve (eds) The Fate of Ethnic Democracy in Post-Communist Europe (Budapest: LGI OSI, 2004), pp. 139-165; Ljubica Spaskovska. In Search of a Demos: Transformations of Citizenship and Belonging in the Republic of Macedonia, CITSEE Working paper no. 10 (CITSEE : Edinburgh, 2010), <http://www.law.ed.ac.uk/file_download/series/217_insearchofademos-transformationsofcitizenshipandbelongingintherpublicofmacedonia.pdf> (accessed 29 October 2010); Anastas Vangeli, "The semantics of "national" belonging in the Republic of Macedonia", paper presented at the 2010 CITSEE Conference "Theories and Practices of Citizenship in the New Balkan States", Edinburgh 24-25 June 2010; Anastas Vangeli, "Theory of the Civic Identity", Political Thought no. 16 (2006), pp. 39-51

the Framework agreement was the emergence of a bicultural rather than a multicultural political order. The impression of the representatives of the ECVRD, but also the ones from the ethnic Macedonian political parties was that the power sharing in Macedonia is distributed between the two major communities (the Macedonians and the Albanians), while other communities are omitted from the picture or given just a symbolical role. Accepting this claim leads to the conclusion that through the patronage towards ethnic Albanians, the state has significantly impaired the chances for the advancement of the right to political participation of the other ethnic communities in the country, including the ECVRD. With this, ECVRD and non-Albanian communities have been de facto dispossessed of their involvement in the decision making process and assigned a role of a democratic accessory rather than an equal political actor. The bi-cultural or bi-ethnic reality in Macedonia has been reflected in the customary meetings of the leaders of the major political parties, received as the embodiment of “political dialogue” and one of the most important democratic instruments in the country. These meetings are considered an important form of democratic governance; yet, they exclude every political subject beyond the few largest parties (usually two Macedonian and two Albanian), thus marginalizing among others, the ECVRD.

The Macedonian electoral model and electoral behavior of the ECVRD

Since the reforms of the political system of the SFRY in the late 1980s and the early 1990s, the Socialist Republic of Macedonia and later on the independent Republic of Macedonia has been a parliamentary democracy, granting the universal suffrage in the form of single non-transferable vote to all of its citizens who are at least eighteen years of age. There are three types of elections held in different intervals – parliamentary elections through which 123 Members of the Assembly (Sobranie, the unicameral national legislature) are elected are held every four years; local elections through which mayors and councils of the units of the local self-government are being elected are held every four years as well; and presidential elections, through which an individual President of the Republic is being elected are held every five years. With certain regulations regarding the separate types of elections, all of the registered political parties are entitled to nominating candidates and so are informal civil initiatives who are obliged to collect certain number of signatures. Every citizen who is not imprisoned can be nominated as a candidate

and if successfully passes through the pre-election procedures, can run for office.

Prior to 2001, the MPs of the Republic of Macedonia have been elected via a combined electoral system, which consisted of both uninominal electoral districts (a total of 85, each providing one seat in the Assembly) and a proportional list, for which the whole state served as one electoral district, providing the 35 leftover mandates. Before 1998, Macedonia had a majoritarian model, in which all of the seats in the Assembly were distributed through the elections in 120 uninominal electoral districts.

Therefore, one of the most important aspects of the post-2001 reforms was the change of the electoral model of the country. The country adopted the so called List Proportional Representation model (List PR) according to which the political parties and coalitions present lists of candidates, and receive seats in the Assembly according to their overall score in a given electoral district. The total votes are then converted into seats by applying the d'Hondt mathematical formula, also known as the system of "highest averages". It is important to note that the Macedonian electoral code includes quotas on gender balance, according to which at least 30% of the candidates on the proposed lists by the political parties have to be of the underrepresented gender, i.e. Women. This practice has been praised as an efficient instrument of empowering women¹³.

The List PR model, as Andrew Reynolds argues, is the most advantageous electoral "[w]hen it comes to the descriptive representation of minority members in national legislatures"¹⁴. According to him, the systems of List PR enable the inclusion of minority groups; enable minority representatives to be nominated by political subjects other than the minority parties; enable representatives to be elected in office in electoral districts where the representative's ethnic community is not a majority. As it will be outlined below, this is the case with the ECVRD, as the List PR electoral model has been highly beneficial for their nominal representation in the Macedonian legislature. However, one significant shortcoming of the Macedonian version of the List PR model is that it does not outline one district unit on the territory of the country, but six different units that bring equal numbers of sea, although they are not demographically balanced. By doing so, the model restricts the capacity of ethnic communities (including the ECVRD) dispersed throughout the territory of more than one district to have their representatives elected, as their votes are essentially split up between elec-

¹³ USAID, "Macedonia's Electoral Quota System is a Model for Gender Participation", 2 July 2009, <http://www.usaid.gov/locations/europe_eurasia/press/success/2009-07-15.html>

¹⁴ Andrew Reynolds, *Electoral systems and the protection and participation of minorities* (Minority Rights Group International, 2006)

toral districts, making their nominal electoral power insignificant and the chances of their representatives being elected insignificant. The civic association “Most”, the most prominent electoral monitoring institution in Macedonia has therefore constantly recommended reconfiguring of the borders of the electoral districts¹⁵. Additionally, the positive effects of the List PR system in the Macedonian system are being restricted by the application of the d’Hondt calculation model, which is the most suitable for broad coalitions and robust political parties, but burdensome for small political parties, such as the political parties representing the ECVRD in Macedonia.

It is also important to note that with the latest amendments to the Code of Election, three new seats were added to the parliament reserved for the Diaspora voters. In the recent period there used to be proposals about amendments in the direction of the inclusion of reserved seats for the minority political parties, among them for some of the ECVRD; yet these proposals were never accepted by the Assembly. Having in mind that the “Macedonian Diaspora” is usually perceived as comprised of ethnic Macedonian émigrés, and that Macedonian Diaspora organization throughout the political development of the country has primarily assumed the role of agents of the Macedonian ethno national self¹⁶, the decision of the Assembly to include three additional seats for the emigration abroad, but no mandatory seats for the domestic minorities can be interpreted as favoritism towards ethnic Macedonians on the account of smaller ethnic communities. Additionally, the proposal to include granted seats for the smaller ethnic communities was not welcome by Albanians, who argued that providing seats to the minorities might lead to political abuses. One underlying reason for such an attitude, however, can be the fact that with the increase of the number of minorities in the Macedonian Assembly, Albanian parties would lose their monopolistic position with regards to the so called “Badinter” principle (majority among both the majority and minority groups), which is in fact one of the main pillars of their political power.

The larger ECVRD in Macedonia, as any other ethnic community, are

¹⁵ Most, “Final Report on the Early Parliamentary Elections 2008” (Skopje, 2008), <<http://camost.org/images/transparency/Parliamentary%20Elections%202008/parlamentarnizbori2008.pdf>>. An in-depth account of the interplay between territorial division, electoral models and minority rights is provided in Daniel Boschler, “It is not how many votes you get, but also where you get them. Territorial determinants and institutional hurdles for the success of ethnicminority parties in post-communist countries”, *Acta Politica*, forthcoming.

¹⁶ For instance, the World Macedonian Congress, a transnational ethnic Macedonian organization aiming to link the Diaspora with the homeland, has been the main agent of the 2004 referendum and protests against the Law on Territorial Division. Their main argument was that the Law was an instrument to create more Albanian dominated units of the local self-government, which they found outrageous. In 2010, the International Macedonian Network for Human Rights has been one of the major campaigners for the protection of the constitutional name of the Republic of Macedonia, despite the fact that the Government is in the process of negotiation for a mutually acceptable name with Greece. Their main argument is that the “identity” of ethnic Macedonians is being treated.

primarily represented through ethnically based political parties who run on ethno political platforms which are rather focused on the problems of the communities rather than on macro political ones. Therefore, it is assumed that the majority of the voters from the ECVRD chiefly support the political subjects that articulate ethnicized platforms. Additionally, the lack of viable multi-ethnic political subjects on the Macedonian political scene leads to the assumption that members of ECVRD are deprived of the opportunity to vote for a holder of a civic platform that would offer an alternative of the predominant model of ethnically framed political discourse. However, the most recent trend is that political parties of the ECVRD often enter pre-electoral coalitions with the bigger parties, as the participation in a larger coalition means granted entrance in the Assembly. Furthermore, grand coalitions have larger budgets for political campaigning. These two aspects make the joint performance more plausible to political leadership of the parties of the ECVRD.

This notion leads to the conclusion that by attempting to vote for “their” party, voters from ECVRD in these cases vote primarily for the coalition which the ECVRD party has joined, usually being led by the major ethnic Macedonian parties. The objective risk of such voting pattern is that if the representatives of the ECVRD for potential Members of the Assembly are lower on the list offered by the coalition, and at the end of the day he or she does not end up victorious, it would mean that the votes of the members of the particular ECVRD have served the interest of the coalition, but not the ECVRD political parties. Furthermore, in such situation, the members of the ECVRD have no provisions that even if the coalition they voted for comes to power, it will take action towards the improvement of the conditions of the everyday life of ECVRD.

Also, sometimes the participation of political parties of the ECVRD in broad coalitions is purely symbolical, as they do not nominate candidates for the electoral lists; in this case, the voters from the ECVRD, even if they vote for the particular coalition, cannot vote for a representative of their own milieu, that could adequately address their needs and interests.

These factors indicate that despite the relatively favorable electoral model, there is no unconditioned relationship between the existence or the activism of political parties of the ECVRD and their fair political representation in the national legislature.

The local elections held every four years, combine both the List PR and the majoritarian models. Members of the Councils of the units of the local self-government are elected through the List PR model and by distributing

the seats via the d'Hondt formula. On the other hand, mayors are elected via the system of majority vote, which depending on the turnout, can end in the first (if more than 50% of the registered voters participate in the election) or in the second round (if the criteria of 50% is not fulfilled in the first round). The electoral districts are the units of the local self-government, comprised of 84 municipalities plus the City of Skopje. They are of special importance for the Roma of Shuto Orizari, as they comprise the majority there and since 1996 have elected Roma mayors.

The Presidential elections are held every five years and so far they had not had special meaning for the ECVRD. No candidate of the ECVRD has ever run for Head of State.

Political representatives of the ECVRD

Roma

Probably the most typical aspect of the political representation of the Roma throughout the recent political history of the Republic of Macedonia is the obvious plurality of Roma political subjects, the lack of singular and unified political stance and the lack of legitimate and undisputed community leaders¹⁷. However, if observed in the broader European context, this has not been an exception as the Roma discourse elsewhere has been marked by the extensive plurality and internal contention of Roma political subjects¹⁸.

Roma political parties have profiled themselves as relatively weak since they are continuously shaken by internal divisions, which on the other hand makes them easy allies when it comes to the formation of political coalitions. At present, there are five political parties of the Roma community in the Republic of Macedonia, all of which have been members of the ruling “Coalition for Better Macedonia” since 2008. The coalition is spearheaded by the VMRO-DPMNE, the largest Macedonian political party. Those political parties are: The Union of the Roma of Macedonia; The United Party for Emancipation; Party for Integration of the Roma; Democratic Union of the Roma and Party for Full Emancipation of the Roma of Macedonia.

The Party for Full Emancipation of the Roma of Macedonia (PCERM) has been the oldest Roma political party, established in the early 1990s,

17 Abizija Memedova et al. “Blank Face, Private Strength: Romani Identity as Represented in the Public and Private Sphere” in in Roma’s Identities in Southeast Europe (Ethnobarometer, 2005), pp. 19-47.

18 See Zoltan Barany. “Romani Electoral Politics and Behaviour”, Journal on Ethnopolitics and Minority Issues, Issue 1 / 2001, <http://www.ecmi.de/jemie/download/Focus11-2001Barany.pdf> (accessed 29 October 2010)

and it has been the “alma mater” of all the important Roma politicians. The party officially united with other Roma political movements into the United Party of the Roma of Macedonia in 2002. It was re-founded in 2006 by Samka Ibraimovski, a wealthy businessperson and former Vice Minister of Labor and Social Policy.

In the period of 1991-1994, it had one representative in the Assembly in Faik Abdi. Abdi was a notable Roma leader who has been active even back in the 1970s during the transnational Roma movement, and has later served one term as a Member of the Assembly of the Socialist Republic of Macedonia in the period 1969-1974. In 1994-1998, PCERM has had two Parliamentary seats: the one of Faik Abdi, and the one of Amdi Bajram, then a rising Roma businessman and political leader. He has become one of the most notable political figures in Macedonia, as with his rough and strident image has attracted the media attention. Bajram later founded the Union of the Roma of Macedonia and as its representative served four years as a Member of the Assembly (1998-2002). Presently, he is MP (term 2008-2012) as a representative of the Union of the Roma of Macedonia, being the single Roma and ECVRD MP. Bajram is infamous for the many controversies and accusations of crime surrounding him (he was sentenced and went to prison for one of them), the public excesses including threatening of journalists and ridiculous public statements such as the one that he will always coalesce with the winning party, regardless of whoever that is. His son, Elvis Bajram, is currently the mayor of the Municipality of Shuto Orizari, which is the single example of a Roma-governed municipality in Europe. Elvis Bajram has caused a lot of public controversy as well. During Bajram’s imprisonment, the Union of the Roma saw the rise of Shaban Saliu, a judge, elected MP for the term 2006-2008. However, after a dramatic split with Bajram, Saliu founded the Democratic Forces of the Roma (DSR).

In 2007, the Macedonian political scene was enriched with another Roma political party, named Democratic Union of the Roma, established in Prilep and led by Adem Afiroski.

The United Party of the Roma (OPR) of Macedonia since 2002 was led by Nezdet Mustafa, who was Member of the Assembly during the term 2002-2006. Mustafa later served as president of the United Party for Emancipation, following the dissolution of the OPR. He served as an MP during the period 2006-2008 and since 2008 he is a Minister without Portfolio in the Government of the Republic of Macedonia. He has gained momentum during the recent scandal with France’s repulsion of Roma.

Nezdet Mustafa is also the first Roma mayor in the country. He was mayor of the Municipality of Shuto Orizari in two terms (1996-2000 and 2000-2002).

During his transition from mayor to MP, the local government of Shuto Orizari underwent political crisis, which was finally resolved by the appointment of Erduan Iseni, member of the OPR. During the local elections in 2005, Iseni was re-elected. In 2009, Elvis Bajram has won the local elections and became the new mayor of Shuto Orizari.

Besides the mayor position in Shuto Orizari, many Roma politicians participate in the Municipality Council. In addition there is one Roma councelor in the City council of Skopje, coming from the Party for the Integration of the Roma.

The complexity of the Roma political scene, along with the numerous feuds and cliques formed around individuals of power has driven back the ordinary people, reducing their enthusiasm. The Ethnobarometer survey points out that many of the Roma individuals have disapproving attitude towards Roma politicians and see them as lucrative and opportunistic, rather than as activists for the Roma rights. On the other hand, the vacuum between the official political representatives and the Roma population has resulted with the emergence of a very broad civil society network comprised both of domestic and trans-national organizations, who have worked in the field of formal and informal education, providing legal assistance, improving the socio-economic situation and in general raising awareness regarding the Roma issue. Especially significant has been the role of the so called “Roma lobby”, an ad hoc coalition of five Roma NGOs (Roma Association “Luludi”, the Network of Roma Women “Together”, the Network of Roma Women “Esma” and the Roma Organization “Drom”) formed in order to monitor the extraordinary round local elections in the municipality of Shuto Orizari in 2005, due to the high prospects of recurring criminal activities and irregularities, which was the initial problem with the previous round of the elections¹⁹. Other important Roma civil society subjects are the National Roma Centrum, which has carried regular campaigns, workshops and seminars on civic and electoral education for the Roma; the NGO Arka which has provided various forms of assistance to Roma who had had problems with obtaining documents for identification and citizenship; the Association for Democratic Development of the Roma “Sun”; the Association for the Integration of the Roma “Moon” and so on. The general impression is that while the efforts of the Roma politicians have been mostly in the sphere of the discursive “high politics”, the impact of the civil society subjects has been more reflected on a lower level, effects felt in the improvement in the everyday life of the ordinary population.

19 See NGO Infocenter 16 August 2005,
<<http://www.nvoinfocentar.org.mk/event.asp?site=nvo&menu=&lang=mak&id=346>>

Egyptians

Macedonian Egyptians are currently being represented by one political party – the Party Union of Egyptians (PSE), established in Ohrid and working primarily in the broader Ohrid region. It has been part of the wide coalition “For a Better Macedonia” spearheaded by the VMRO-DPMNE political party. It has not participated independently on any elections and has not listed candidates nor was represented in any branch of the government. While the PSE has profiled itself more as a partner rather than as an independent party, the role of the bearer of the interest of the ethnic Egyptians in Macedonia has been played by several civil society actors. The most important of them has been the Association of Egyptians, established in 1990, which has been active in awareness rising but also research projects. The Union of Balkan Egyptians, as an international NGO, has established itself as a serious research and advocacy organization, implementing large scale activities with the support of the institutions of the European Union. There are several other local Egyptian nongovernmental organizations dealing with the protection of Egyptian rights, such as “Amon Ra” from Bitola and “Isida” from Resen. Two important performative art collectives promoting Egyptian culture are “Pyramid” and “Nefertiti”.

As in the case of the Roma, the assessment of the effects of the Egyptian organizations leads to the conclusion that it is rather the civil society subjects, than the political parties who have had a larger contribution for the improvement of the status and the general socio-economic position of the ordinary Egyptian population, the increasing of Egyptians’ public visibility and the advancement in terms of full integration of the Egyptians within the institutions of the system.

Ashkali and Kovachi

The Ashkali and Kovachi communities do not have a significant political representative. The votes of Ashkali and Kovachi people are assumed to have been distributed among Roma, Egyptian or Albanian political parties.

Mainstream political parties and the ECVRD

The discourse of the mainstream political parties, regardless of their ideological or ethnic profile is marked by general openness and the acceptance of the existence of various ethnic communities regardless of the size and the aspects of self-definition of such communities²⁰. Consequently, the main political parties (SDSM and VMRO-DPMNE whose representatives were interviewed, and furthermore DUI and Demokracia e Re whose attitude was deducted from a broader discourse analysis) have generally open discourse towards the ECVRD, since they consider their question being part of the field of multiculturalism. Therefore, the general impression is that a crucial factor for such a friendly attitude of the Macedonian political parties might be primarily a result of their obedience to the multicultural model of the state rather than their awareness of the problems of social exclusion the ECVRD face.

One significant aspect of the political constellation of Macedonia has been the role of the political parties of the ECVRD, in the first place the Roma political parties, as factors for balancing the tension between the Macedonian and Albanian political blocs. Eben Friedman has argued that the Roma discourse has been utilized primarily by Macedonian authorities not only out of concern for the minority itself, but also because of the tug of war between various political parties. As he points out, “threatened by rivals both Macedonian and Albanian, Macedonian authorities have granted rights to the Roma in the hope of securing loyal allies against other segments of the titular population and Macedonia’s largest ethnic minority.”²¹ Moreover, Macedonian politicians, motivated by pure multiculturalism endeavors or simply by resentment towards Albanians, argue that the country has neglected the smaller ethnic communities on the account of the larger ones.

The representatives of the VMRO-DPMNE are especially proud of the fact that the coalition led by them, named “Coalition for Better Macedonia”, incorporates parties representing the Turkish, Serbian, Vlach, Bosniak, as well as five Roma parties and the Party Union of the Balkan Egyptians. According to them, their coalition has been example of true

²⁰ The most significant exception is the Bulgarian-Macedonian minority, which is comprised of people originating from ethnic Macedonian background, who claim that are related with the Bulgarian nation, opposing the official Macedonian national narrative. The label used for denoting this category is “Bulgarophiles”, “Tout-a-Bulgarians” and “Tatars” and they are continuously derided as traitors of the Macedonian nation and accused of being servants of the Bulgarian anti-Macedonian propaganda.

²¹ Eben Friedman, “Political Integration of the Romani Minority in Postcommunist Macedonia”, Southeast European Politics Vol. III, No. 2-3 November 2002, pp. 107-126

multiculturalism and their party has set very high criteria in terms of the inclusion of the political representatives of the parties of the smaller ethnic communities. However, in the official rhetoric of the VMRO-DPMNE, the Roma issue is perceived as an ethnic one, rather than as an issue of social exclusion of a category vulnerable to racial discrimination. Similar is the treatment of the other ECVRD, which are seen as “smaller ethnic communities” whose right for cultural self-definition and full integration have been granted and fully supported. VMRO-DPMNE is fairly regarding their potential listing of the ECVRD such as the Egyptians as a separate community in the Preamble of the Constitution.

The representatives of SDSM, on the other hand, are aware of their shortcoming to secure stable alliance with the political representatives of the ECVRD, although besides political support, the party as an opposition one cannot provide any other concrete benefits for the smaller political parties. The SDSM is aware that the problem of the ECVRD is a problem of social exclusion and therefore aims not only to broaden the debate on the Roma question to the wider spectrum of ECVRD, but also to present their problem as structural rather than as an ethnic one. They do not believe that the “bargaining” with the political leadership of the ECVRD will automatically if at all improve the situation of the ECVRD, and therefore they are supporting the idea of full integration regardless of the short-term political interest to coalesce with certain political subjects.

Mainstream Albanian parties on the other hand, have promoted a fairly neutral rhetoric towards the ECVRD issue. However, there might be a claim of latent contention between the respective political blocs, because, on one hand the dominance of Albanians in the political discourse has overshadowed the smaller ethnic communities, including the ECVRD, while on the other, the growing importance of the question of the ECVRD, and if it is especially defined as a problem of social exclusion rather than an ethnic one, a significant portion of various resources designated to the practice of multiculturalism might be shifted towards the ECVRD.

Major obstacles and challenges for ECVRDs equal political participation

The ECVRD, primarily due to their disadvantageous socio-economic position that is a result of durable structural marginalization, face several crucial problems for their fair and effective political representation.

The most burdensome issue of many members of the ECVRD is the issue of statelessness. Plenty of secondary sources point to primarily to the reality of thousands of Roma who did not manage to obtain Macedonian citizenship after the break-up of Yugoslavia because of structural problems, such as illiteracy, inability to prove their constant residency because of the lack of documentation but also the living in slums or simply are nomadic or homeless²². Additionally, due to the extreme destitution in which many Roma and in general members of the ECVRD have found themselves, they cannot even afford the fees for the documentation, even though they vary from five to twenty Euros²³. Their status remains uncertain and unregulated. Both the native members and political migrants from ECVRD are left on the mercy of the labyrinthine system of the Macedonian bureaucracy.

The possession of a Macedonian citizenship is the single valid argument for one individual to be able to exercise his or her own voting rights. Without citizenship, one loses the right to vote and therefore the right to political participation. Granting and advancing citizenship rights have been pointed as fundamental issues regarding the advancement of the political situation of minorities, but still remain a challenge for Macedonian institutions.

The economic insecurity and the state of penury by which numerous members of the ECVRD are struck, make them further a likely target of unlawful endeavors, electoral frauds and political manipulations by the local political elites. This is especially the case when it comes to the elections and the ruthless struggle for votes, which is deprived of any ethnical norms. Very often, political partisans buy off the votes of the locals in areas of extreme impoverishment, as the immediate financial or any other material gain for the population is enough of an incentive to give up their voting rights. The simplest way is the practice of providing “oil and flour” or other basic groceries to the socially excluded population, for which in return they support

²² See Ljubica Spaskovska, Macedonia's Nationals, Minorities and Refugees in the Post-Communist Labyrinths of Citizenship, CITSEE Working paper no. 5 (Edinburgh, 2010) and Melina Grizo, “Roma, gender and citizenship: the developments in the Republic of Macedonia”, paper presented at the 2010 CITSEE Conference “Theories and Practices of Citizenship in the New Balkan States”, Edinburgh 24-25 June 2010

²³ Joanne van Selm, “Stateless Roma in Macedonia”, Forced Migration Review 32, April 2009, pp. 46-47. Additionally, Macedonia has welcome members of ECVRD from Kosovo and Serbia that fled their places of origin due to the political and military crisis in the late 1990s, most of which sought asylum in the country.

the party that has provided the goods. Another, more subtle practice established among the Macedonian peripheries is the so called “train voting” in which the voters are given an already filled ballot outside the voting place by a “facilitator”, which they later cast in. On their way out of the voting place, they return the empty ballot which was originally designated for them in the voting place, handing it in to the “facilitator” who fills it in and hands it to another voter and so on. Usually the “facilitators” are also recruited from the ECVRD in order to gain the trust of the locals. The compensation they get for such actions is insignificant compared to the standards of the average citizen of Macedonia, but it is more than enough to help them make ends meet as their struggle is day-to-day.

This problem is inherently related with the social structure of the ECVRD. Due to the generally low level of education and the unfavorable conditions for political and public life participation, one of the developments has been the rise of controversial ECVRD political elite. In fact, as it was discussed above, certain political representatives of the ECVRD have had long list of misconducts, raising the question whether their careers are driven by devotion to their communities or by individual opportunism and lucrative interests. Very often, precisely these leaders are suspected of being involved in electoral scams to the extent of being the major architects of the fraudulent practices, which at the end of the day, regardless of the electoral outcome, harms the integrity and the interests of the ECVRD. In fact, the reports of the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE/ODIHR) for the 2009 elections has come up with the remarks that electoral irregularities and controversies occurred in the Roma dominated Shuto Orizari, which have included disputing the final outcome manifested in the forms of public protest²⁴. The civic organization “Most” has also noted that among other regions, there were irregularities in terms of the counting of the ballots in the Roma dominated Shuto Orizari during the 2009 elections²⁵.

Finally, one especially important obstacle to the equal exercise of the voting rights and the right to political participation by the members of the ECVRD is the infamous occurrence of the so called “family voting”. “Family voting” is the practice of the male members of the families, usually the seniors, to fill in the ballots of their wives and possibly other members of their family. This practice is not typical exclusively for the ECVRD, but for

24 OSCE/ODIHR, Final report on the 22 March and 5 April 2009 presidential and municipal elections in the former Yugoslav Republic of Macedonia (2009), p. 11

25 Most, Final Report on the Local Elections 2009 (Skopje, 2009), <http://camost.org/images/transparency/elections2009/Izvestaj%20izbori%202009_Final_3%20jazici.pdf>, p. 58

a large share of the population in Macedonia, primarily inhabiting the rural and impoverished areas. It is seen as a practice detrimental to gender equality and as impairing the political rights of women. As the OSCE/ODIHR reports for the elections in 2008 and 2009 have noted, not only is the family voting problem “widespread”, but it is also especially worrying that many of the election officials and monitors have the function of perpetrators and enablers of family voting, as they do not sanction or report it, besides the fact that they witness it regularly²⁶.

Instruments of protection

The institutions of the system have acknowledged the objective difficulties some of the ECVRD face for achieving successful political participation and therefore prescribed concrete measures and milestones for the protection of their rights. Additionally, an important instrument for the support of the ECVRD are the guidelines issued by international organizations that aim to benefit all of the minority groups, although a universal remark is that there is lack of emphasis on the socially excluded ones, such as the ECVRD in Macedonia. Finally, the civil society actors have also assumed an important role in the process not only of protection, but also education of some of the ECVRD regarding their political rights, and campaigned against the fraudulent practices or the patriarchal practice of family voting.

The single most important governmental act that aims to improve the general position of the Roma, the Strategy on the Roma, contains a separate chapter with recommendations regarding political participation. Among other things, these recommendations include references on the enhancement of the collaboration between the national and local political leadership, and the political representatives of the Roma; encouragement of the Roma population to fulfill their interests by supporting not only the Romany political subjects, but through other political parties as well; providing political education of the members of the Roma political parties; improve cooperation of the political parties of the Roma with the larger political parties in the state; inclusion of Roma candidates by other political parties; raising awareness among Roma voters, agitate for larger participation in the elections and especially raise the awareness among Roma women about their voting rights; sanction “family voting” etc²⁷. However, the Strategy does not include any reference on the

²⁶ See OSCE/ODIHR, Final Report on the 1 June 2008 Parliamentary Elections in the Former Yugoslav Republic of Macedonia (2008), p. 16; OSCE/ODIHR, Final report on the 22 March and 5 April 2009 presidential and municipal elections in the former Yugoslav Republic of Macedonia (2009), p. 21

²⁷ Ministry of Labor and Social Policy of the Republic of Macedonia, Strategy on the Roma of the Republic of Macedonia

problem of other ECVRD, although identifies racial discrimination as one of the crucial aspects of the Roma question. The sole reference to the Egyptians and Ashkali is in the context of the asylum-seeking refugees from the Kosovo crisis.

International organizations, primarily the different branches of the United Nations, have been a major actor in the process of improving the political participation of the ECVRD, in the first place, the Roma. The United Nations Development Fund for Women (UNIFEM) has generally worked on the empowerment of women, emphasizing the needs of the women from minority groups and the United Nations High Commissioner for Refugees (UNHCR) has provided significant assistance to the individuals struggling with the lack of documentation and citizenship, many of whom members of the ECVRD.

When it comes to the international documents that provide concrete recommendations and benchmarks, which if implemented will directly benefit the political participation of the ECVRD, several separate acts can be distinguished. Apart from the basic conventions and acts that regulate minority rights and various manifestations of discrimination, especially important is the role of the ECRI, which regularly publishes policy recommendations regarding the battle against racism and racial discrimination in all of the member states of the Council of Europe, and conducts separate case studies. In the survey on the case of Macedonia in 2010, however, ECRI does not mention any other ECVRD listed in this paper, except the Roma. It does, however, refer to the case of the Macedonian Turks²⁸.

The single most important international act on the minority political participation, however, is the 1999 OSCE's Lund Recommendations, which have been designed as a mean of early action and conflict prevention. The document aims to provide sound arguments, directions and recommendations that would ultimately benefit the minority communities and improve their public visibility and participation in all spheres of public life. Regarding the political participation of minorities, the Lund document insists on the provision of opportunities "for minorities to have an effective voice at the level of the central government", for which special arrangements such as reserved seats in national legislatures, allocating seats in cabinets or reforms in the public administration to suit the needs of the minorities are taken in account. The political participation, according to the Lund recommendations should be facilitated through the elections, and the design electoral model must take in account the

(2005), p. 96

28 European Commission against Racism and Intolerance. Report on the "former Yugoslav Republic of Macedonia" (Strasbourg : Council of Europe, August 2010)

interests of the minorities²⁹. Only some of these recommendations have been implemented in Macedonia.

Concluding remarks

As argued throughout this paper, the ECVRD in the Republic of Macedonia face a perpetual problem of low level of political participation. The underlying reason for this is their highly unfavorable social position and the systematic exclusion from the public life in the country.

On the macro level, although post-2001 Macedonian political system has adopted the rhetoric of multiculturalism, the factual situation in the country points to the existence of a bicultural setting, in which the power is being shared primarily by the ethnic Macedonian and Albanian political subjects, while the rest, including the representatives of the ECVRD, are being relegated to the role of passive associates. Due to the ethnicization of the political discourse, one of the most significant problems of the question of the low political participation of the ECVRD has been the tendency of the political discourse to neglect the component of social exclusion on the account of overemphasizing the ethnic one. In the context of Macedonia, this has been manifested as focusing solely on the Roma community, while neglecting the Egyptian, Ashkali, Kovachi and other possible categories vulnerable to racial discrimination and victims of social exclusion. Moreover, this rhetoric has aimed of perpetuating the ethnic borders, additionally compromising the perspectives of full integration of the ECVRD within the society and keeping them away from the decision making process.

On the micro level, many of the members of the ECVRD are still facing objective difficulties to fully exercise their basic political rights and freedoms. A significant portion of the ECVRD has still not obtained citizenship which prevents them from participating at the elections. However, the members of the ECVRD eligible to vote are often forced into fraudulent circumstances in which their votes are instrumentalized and their unfavorable social status taken advantage of. An important enabler of this is the relatively unsatisfactory level of awareness about the political rights. Especially exacerbated is the position of female members of ECVRD, which are victims of the radical patriarchy, manifested through the practice of family voting.

Members of the ECVRD have not been only damaged by the political discourse beyond their boundaries, but also by the emergence of questionable

²⁹ OSCE. The Lund Recommendations on the Effective Participation of National Minorities in Public Life & Explanatory Note (The Hague, 2009)

political leadership. Some of the current political leaders of the political parties of the ECVRD have demonstrated a limited capacity for social change. The ones who are readier for that, have faced the limitations of the broad ruling coalition in which the share of the ECVRD is very small, and therefore their capacity to exercise political power is small as well. The only institution in which ECVRD have been able to maintain control, is the municipal authority in Shuto Orizari; however, the democratic process in Shuto Orizari has been violated by lucrative interests of the narrow political elite. At the end of the day, it is the international organizations and the domestic civil society actors who have made the change in the everyday life of the members of the ECVRD.

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MONTE NEGRO

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1. Ethnic structure

The Constitution of Montenegro¹ does not provide a definition of minorities. However, according to Article 2 of the Law on Minority Rights and Freedoms², minority is any group of citizens of the Republic, numerically smaller than the prevailing population, which has common ethnic, religious or linguistic characteristics, different from the rest of the population, historically connected with the Republic and motivated by the desire to express and preserve its national, ethnic, cultural, linguistic and religious identity.

The Preamble of the Constitution enumerates some of the nationalities living in Montenegro: "... Montenegrins, Serbs, Bosniaks, Albanians, Muslims, Croatians and others ...". It defines them as: "... free and equal citizens, members of nations and national minorities who live in Montenegro."

Table 1 National structure of the population in Montenegro:

No.	Ethnicity	1991 year		2003 year	
		Number of members	Percentage (%)	Number of members	Percentage (%)
1.	Montenegrins	380.467	61,86	267.669	43,16
2.	Serbs	57.453	9,34	198.414	31,99
3.	Bosniaks	-	-	48.184	7,77
4.	Albanians	40.415	6,57	31.163	5,03
5.	Muslims	89.614	14,57	24.625	3,97
6.	Croatians	6.244	1,02	6.811	1,10
7.	Roma	3.282	0,53	2.601	0,42
8.	Yugoslavs	26.159	4,24	1.860	0,30
9.	Macedonians	1.072	0,17	819	0,13
10.	Slovenians	369	0,04	415	0,07
11.	Hungarians	205	0,04	362	0,06
12.	Russians	118	0,02	240	0,04
13.	Egyptians	-	-	225	0,04
14.	Italians	58	0,01	127	0,02
15.	Germans	124	0,02	118	0,02
16.	Other	1.001	0,16	2.180	0,35
17.	Undeclared	943	0,15	26.906	4,34
18.	Regional affiliation	998	0,16	1.258	0,20
19.	Unknown	6.076	0,99	6.168	0,99
TOTAL		615.035	100%	620.145	100%

1 The Constitution of Montenegro was adopted on October 2007, Official Gazette of Montenegro, no. 1/07.

2 Official Gazette of Montenegro, no. 31/06, 51/06 and 38/07.

The results from the 2003 census³ show that there are several ethnic communities which may be considered as vulnerable to racial discrimination. In this report, a more detailed attention will be given to RAE ethnic communities. As it has been noted before, these communities have not been mentioned in the Constitution and there is little available data on their political participation.

The above presented information on the ethnic structure of the population in the 2003 census was collected on the basis of free expression of the citizens. Article 34 of the previous Constitution guaranteed the citizens' full freedom of expression of national affiliation. According to the same Article, the citizens had the right not to declare on this issue. The population was informed that they are not obliged to respond to the questions regarding religious and national affiliation⁴. Furthermore, during the last census of the population, special efforts were made to ascertain that in the communities where minority members were in a majority or they formed a significant part of the population, the polltakers were members of these minorities. Nevertheless, there was no single member of RAE among the polltakers and one can argue that these groups have been discriminated.

According to the official census, RAE in Montenegro present less than 0,5% of the entire population. Since a certain number of members of RAE do not have complete personal identification documents and since they are not legally registered, it is probable that the official numbers underestimate the number of members within these three groups. The relevant NGOs and international organizations, including Government itself, estimate that there are between 15 and 20 thousand Roma, Ashkali and Egyptians. Therefore, RAE population forms around 3% of the entire population⁵. It should be noted, however, that the estimated number of 15 to 20 of RAE is likely to cover both domicile and internally displaced persons from Kosovo, as well as some who, for whatever reasons, do not declare themselves as RAE. The official statistics show only 2601 Roma, 225 Egyptians, and about 4 316 Roma, Ashkali and Egyptians who are "internally displaced persons" from Kosovo⁶.

There is no available information on the relative proportion of these three groups within the entire number of RAE. Non-Roma population in general,

3 Source: MONSTAT, Statistical Office of Montenegro.

4 See: "The First State Report on the implementation of the Framework Convention for the Protection of National Minorities".

5 Strategy for Improving Position of the RAE Population in Montenegro 2008-2012, Government of Montenegro (This document states that this information is taken from various sociological researches of NGOs without mentioning more sources).

6 MONSTAT- Statistical Office of Montenegro and Commissioner for Refugees and Displaced Persons of the Government of Montenegro.

as well as the Roma themselves, have the tendency to regard the Ashkali and Egyptians as Roma, but members of these groups consider themselves distinct from Roma in the historical, linguistic and cultural sense⁷. Along with the division within Roma, Ashkali and Egyptians, differences are evident between RAE people who live in Montenegro for a long time and those who have recently come from the neighboring countries (states emerged from the dissolution of SFRY). All three populations live concentrated in southern and central parts of the country. The largest number RAE population lives in Podgorica, Niksic, Herceg Novi, Bijelo Polje, Berane, Cetinje and Ulcinj, but in none of these municipalities they participate with 1% of entire population in the municipality. For example: Podgorica - 1389 or 0,82%; Niksic 335 or 0,44%; Herceg Novi 198 or 0,60%; Bijelo Polje 133 or 0,26%; Berane 119 or 0,34%; Cetinje 129 or 0,70%; Ulcinj 115 or 0,57%.

There are no political parties of RAE. There are no political parties of national minorities which declare themselves as representatives of the interests of several ethnic minorities living in Montenegro, including the RAE communities, as well.

2. Political rights

Obligations deriving from the international legal framework

Article 9 of the Constitution provides that: “the ratified and published international treaties and generally accepted rules of international law are an integral part of the internal legal order, and they have primacy over national legislation and are directly applicable when they regulate the relations in way which is different to the national legislation”.

Montenegro has signed and ratified several international instruments concerning the protection of human rights. Within the UN legal system⁸, they are as follows: International Covenant on Civil and Political Rights, and two Optional Protocols, (entry into force on 23 Oct 2006), International Covenant on Economic, Social and Cultural Rights, (entry into force 23 Oct 2006), Convention and Protocol Relating to the Status of Refugees, (entry into force 10 Oct 2006), International Convention on the Elimination of All Forms of Racial Discrimination, (entry into force 23 Oct 2006), Convention on Elimination of All Forms of Discrimination against Women (CEDAW),

⁷ See the report: “Improving the education of Roma”, the Roma Education Fund, 2009.

⁸ www.gov.me

(entry into force 23 Oct 2006), UN DECLARATION ON MINORITIES. In addition, Montenegro is committed to the Universal Declaration of Human Rights, as it forms a part of the customary international law.

Within the legal framework of the Council of Europe⁹, they are as follows: Convention for the Protection of Human Rights and Fundamental Freedoms and Protocols (entry into force on 6 June 2006), European Framework Convention for the Protection of National Minorities, (entry into force 6 June 2006), European Charter for Regional or Minority Languages, (entry into force 6 June 2006), European Charter of Local Self-Government (entry into force on 1 January 2009).

Internal legal framework

The most important legal sources concerning the position of ethnic communities are the Constitution of Montenegro, the Law for minority rights and freedoms¹⁰ and the Law on prohibition of discrimination¹¹. Also, an important document regarding the position of the ethnic minorities is the Strategy for Minority Policy which represents the policy of Montenegrin Government and it was passed in June 2008.

Concerning the position of RAE, the Government adopted the following acts: Strategy for Improving of the Position of the RAE Population in Montenegro 2008-2012, adopted on November 8, 2007 and Action plan for implementation of “2005 – 2015 Roma Inclusion Decade”, adopted in January 2005. All documents of strategic importance for Roma equally concern the Ashkali and Egyptians, although the names of these communities have not been noted in the titles at all.

Political rights

As mentioned above, the Constitution does not provide a definition of minorities, but its preamble enumerates some of them. RAE are not mentioned in the preamble. The Constitution guarantees free expression of nationality. It also provides a legal basis for promoting, strengthening and enhancing the protection of human and minority rights and it confirms the obligation of Montenegro to respect the international standards with regard

⁹ www.coe.int

¹⁰ Official Gazette of Montenegro, no. 31/06, 51/06 and 38/07.

¹¹ Official Gazette of Montenegro, no. 46/10.

to that.

The basic provisions of the Constitution provide general guaranty for the protection of human rights and freedoms, as inviolable categories (Article 6); prohibition of incitement to hatred or intolerance on any basis (Article 7); Article 8 guarantees the prohibition of any “direct or indirect discrimination on any grounds” and also states that “regulations and introduction of special measures aimed at creating the conditions for the realization of national, gender and overall equality and protection of persons who are in an unequal position on any grounds shall not be considered discrimination. Special measures may be applied only until the achievement of the objectives for which they were taken.” This provision allows the establishment of additional mechanisms for the protection and promotion of minority rights and integration of minorities with preservation of their uniqueness.

The second part of the Constitution is dedicated to human rights and freedoms, civil, political, economic, social and cultural. It concerns the minority rights, as well. Concerning the suffrage, the Constitution identifies the principles of equality, universality, privacy and directness of the vote in the elections (Article 45). The Constitution provides that the right to elect and be elected shall be granted to every Montenegrin citizen who is 18 years or older, with at least two years of residence in the country. The Constitutional provision concerning two-year residency requirement to elect and be elected is not consistent with the principle of universal suffrage¹². There is no data, however, how this affects the RAE, as an indirect discrimination may occur only in cases when a disparate number of them suffer from this provision. This is one of many provisions where ground research should be undertaken, as at the moment, in general, there is very little data on the participation of Roma in the political life and in the elections in Montenegro.

The Constitution does not specify the way of exercising the voting right, but it obliges the legislator to comply with these principles in regulation of this matter. The exercising the voting right is the subject of the Law on the Elections of Council Members and the Members of Parliament and the Law on Registers of Voters. According to the Law on the Elections of Council Members and Members of Parliament, suffrage includes the right of citizens “to elect and be elected, to nominate and be nominated, to decide on the proposed candidates and electoral lists, to pose questions to the candidates publicly, to be timely, accurately, fully and objectively informed about the programs and activities of the submitters of the electoral lists and candidates on those lists, as well as to have on disposal the other rights

¹² OSCE/ODIHR Election Observation Mission Final Report in 2009, <http://www.osce.org/odihr-elections/documents.htm>

guaranteed by this law” (Article 10). In the same way as the Constitution, this law stipulates that a citizen of Montenegro who is 18 years old may be nominated for a member of the Parliament, given that they have a working ability and is a resident of Montenegro for at least 24 months prior to the election date (Article 11). The voting is secret¹³.

According to Article 2 of the Law on Election of Council Members and Members of Parliament, citizens elect council members and representatives on the basis of free, universal, equal and direct suffrage by a secret ballot. No one can be called to account for voting or to say for whom they voted, or why they have not voted. In addition to this, the Anti-Discrimination law prohibits any form of discrimination against individuals or groups of persons because of political beliefs, belonging or not belonging to a political party or other organization (Article 14).

The Constitution and laws allow the freedom of gathering, without approval, with prior application to the institution in charge. The Institution in charge may temporarily restrict the freedom of gathering in order to prevent disorder or committing of a criminal act, jeopardizing health and moral, or because of the security of people and assets, in accordance with the Law (Article 52 of the Constitution). The authorities mainly respect these rights in praxis¹⁴. There is no data how this freedom affects the REA, as they have no political parties in Montenegro. Activists of RAE NGOs have the freedom of peaceful assembly and authorities respect this freedom in practice. The reports of international organizations confirm this.

The Constitution guarantees freedom of political, union and other association, as well as the principle that “nobody can be forced to be a member of some association”. The Constitution regulates that associations are formed without prior approval, but with an entry in the register, done by the responsible state institution. According to Paragraph 3 of Article 53: “The State helps political and other associations, when there is a public interest for it”. However, certain restrictions of political associating and functioning exist. Thus, political associating is forbidden in state institutions. Political associating of foreigners and political associations whose headquarter is outside Montenegro is also forbidden (Article 54). The Constitution also forbids political and other associations whose functioning is directed toward violent destruction of constitutional order; violation of Montenegrin territory; violation of guaranteed rights and freedoms; or for provoking national, race, religious or other hatred and intolerance; and also forbids formation of se-

13 See answer 4.

14 U.S. Report on Human Rights in Montenegro, http://podgorica.usembassy.gov/human_rights_report_mn.html

cret subversive associations and irregular armies (Article 55).

It is important to note that the Constitution and Law on Minority Rights and Freedoms stipulates that minorities and their members have the right to establish and maintain free and peaceful contacts across frontiers with the homeland and with their compatriots living in other countries, particularly those with whom they share an ethnic, cultural, linguistic or religious identity. In addition, the Law on Minority Rights and Freedoms stipulates that minorities and their members can receive material and financial support from the local and international organizations, foundations and physical entities (Article 31). In the case of financial or other assistance to associations, institutions, societies and minority NGOs from abroad, the State can provide appropriate tax and other incentives or release from the custom fees (Article 32).

The Constitution also guarantees the freedom of speech (Article 47). The limitation of this right is possible in cases when dignity, reputation and honour of other person, public moral and safety of Montenegro are jeopardized. This freedom is generally respected in practice and no report or complaint indicates in the direction of prohibiting the freedom of speech for RAE in Montenegro.

These rights have been respected in practice. One can argue, however, that apart from the efforts to form several nongovernmental organizations, the RAE are not active in the public life. They have not formed their own political associations and they do not participate in the other political associations. Because of it, the respect of the above rights in law and practice does not contribute to the improvement of their participation in the institutions. The reasons for their inactivity should be searched elsewhere.

Minority rights

Apart from the fundamental human rights and freedoms, the Constitution and laws of Montenegro give minorities a set of additional rights, with the objective of protecting their overall national identity. Articles 79 and 80 of the Constitution guarantee the members of minority nationalities and other minority national communities the rights and freedoms, which they can use individually and in association with others, and it forbids the assimilation of national minorities. The State is obligated to protect members of minority nationalities and other national minorities from all kinds of vio-

lent assimilation.

The Constitution guarantees the following special minority rights: 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 include in the school curricula the history and culture of the persons belonging to minority nations and other minority national communities; in the areas with significant share in the total population, in the local government authorities, state and court authorities the right to carry out the proceedings in the language of minority nations and other minority national communities. Unfortunately, as RAE live dispersed in different municipalities, they are not in the position to benefit from it. For example, the Albanian minority can to use this right without any obstacles. The analysis of the legislation concerning the elections will be made further on.

The minorities also have the right to establish educational, cultural and religious associations, with material support of the State; the right to write and use their own name and 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 councils of the local self-government units in which they represent a significant number of the population, according to the principle of affirmative action.

Also, they have the right to a proportionate representation in public services, state authorities and local 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; the right to establish councils for the protection and improvement of minority rights. In practice, however, these councils have a much weaker influence than the political parties (this is explained further in the article).

It is obvious that the Law on Minority Rights and Freedoms regulates the minority rights, the protection of minorities from assimilation and enabling efficient participation of minorities in public life. A reason for con-

cern is that this important law still does not comply with the Constitution. Minority, according to this law, is any group of citizens of the Republic, numerically smaller than other prevailing population, which has common ethnic, religious or linguistic characteristics, different from the rest of the population, historically connected with the Republic and motivated by the desire to express and preserve their national, ethnic, cultural, linguistic and religious identity (Article 2). Under the provisions of this law, the members of minorities may actualize their rights and enjoy freedom individually or in community with others. The minorities have equal rights as the other citizens and they enjoy equal protection. It is illegal and punishable to violate any rights of the minorities. Besides the right to express their interests, the members of the national minorities have the “right to effective participation in the governance and public control of government” (Article 22).

However, these are rights without proper content, because the law does not regulate what is the meaning and in which way minorities accomplish efficient participation in government.

It is interesting to note that the provisions on authentic representation of minorities in the Parliament and in the local units, introduced in the Law on minority rights and freedoms, were proclaimed as unconstitutional in 2006, before the new Constitution was passed in October 2007. After that, until today, this Law has not been amended in this direction.

The Law guarantees that “Minorities have a right to proportional representation in public services, and state and local authorities. The competent authorities, in cooperation with the minority Councils take care about the representation of minorities (in terms of paragraph 1 above).” (Article 25). However, the Law missed a chance to regulate the mechanisms that would achieve “proportional representation of minorities in public services and authorities”. In future, it is also necessary to clarify the constitutional provision of “equal representation” of national minorities in public services¹⁵. These provisions on “proportionate representation” of national minorities in public services need to be made operational, notably by relying on data on the participation of persons belonging to national minorities in the total population. It is also important that clear instructions be drawn up in order to guide public administration in its new tasks.

Article 79 of the Constitution guarantees “authentic representation” of minorities in the Montenegrin Parliament and the assemblies of local governments where they constitute a significant proportion of the population, according to the principle of affirmative action. However, this constitutional

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provision requires further elaboration in the Montenegrin legislation. In this sense, the expectations from the new electoral law are high, but this law has not been adopted, even after three years of constitution's passing. The deadline for its passing has been extended several times. The last deadline for passing this law was December 2010. For this law to pass, 2/3 of the deputies' support is necessary. Until today, the working group did not propose a draft law that would secure the necessary 2/3 majority of the deputies' votes.

This is one of the key information in the report. This law should develop the constitutional guarantee of "authentic representation" of minorities in the Parliament (Constitutional article 79, item 10). This law did not comply with the Constitution, and this is crucial important legislation. It is realistic to expect that ECVRD will benefit from the adoption of the new Election Law, as the provision of "authentic representation" of minorities according to the principle of affirmative action applies to them also.

After the last Parliamentary elections¹⁶ the situation is as follows: from the total of 81 mandates in Parliament, national minorities have 18, and three members of national minorities are members of the Government. With the Law, five parliament mandates are reserved for Albanians. Thus, the minorities which are represented are the Albanians, Bosniaks, Serbs, Croatians-MPs from political parties of national minorities and the other MPs belong to different civil political parties.

There have been no RAE representatives in the parliament. There have been no representatives of RAE on the electoral lists as well. This ethnic minority, no matter the same legal possibilities (which are not developed to an effective level) does not have access to decision making positions in national or local level in Montenegro in praxis, although there are no language requirements for the public office.

3. Legislation on political parties

It has been noted before that the Constitution and law, guarantee the freedom of political associating, in accordance with international human rights instruments. The Law on political parties¹⁷ regulates more precisely the registration, association and termination of political parties' work. According to it, the parties are organized and operate only upon a territorial principle¹⁸,

¹⁶ March 29, 2009 were held early parliamentary elections in Montenegro.

¹⁷ Official Gazette of Republic Montenegro, no 21/04.

¹⁸ Article 4.

and their work is public¹⁹. “A political party can be established by at least 200 citizens with voting rights in the Republic of Montenegro, who voluntarily sign a statement on the establishment of the party.²⁰” The law does not place any additional conditions for foundation of political party.

Thus, in order to register a party and that it acquires a legal personality, it is not necessary to obtain an approval of the state authorities, but only to pass the registration procedure with the competent ministries. For the registration of a party, the following has to be submitted: an application for registration, the decision to establish the party, the party’s statute and program of the party. Political parties, with their internal documents (party’s statute and program) regulate: program goals; party’s territorial and internal organisation; rights and responsibilities of party’s members; procedure of making a decision about association in parties’ coalitions; procedure of making a decision about joining international organisations; procedure of making a decision about termination of party’s work, the way of accomplishing transparency of party’s work etc.

The limitations of the freedom to association concerning political parties are: the party that has headquarters outside Montenegro can not work; the founders of the political parties can not be foreigners, as well as people without citizenship or refugees. Although it is true that there is a substantive number of RAE who are refugees and without regulated personal documents or even citizenship, there is a substantive number of RAE who are citizens and who can be founders. These limitations have little importance for the lack of political participation of RAE should be searched elsewhere.

The Constitution and law also forbid political parties whose functioning is directed toward violent destruction of constitutional order; violation of Montenegrin territorial completeness; violation of guarantied rights and freedoms; or for provoking national, racial, religious or other hatred and intolerance. One can say that the Law on political parties does not interfere with the freedom of association, which is guarantied by the Constitution and accepted international instruments. These limitations do not violate international standards and they do not effect negatively upon efficient participation of national minorities in the public life. Political parties in the praxis function without limitations or exterior influences. It is also possible to form a political party based on communal identity (ethnicity),

19 Article 3.

20 Paragraph 1 of article 7.

as there are no such restrictions in the law.

The Law on financing political parties²¹ provides a more precise regulation on the financing of political parties' work and financing of the election campaigns. A political party can gain means for financing its work through public and private resources, in accordance with the Law.

Public resources, in the sense of this Law, represent resources from the budget of Montenegro and from local governments' budgets – so called budget resources. Private sources are: membership fees, contributions, income from activities, income from property, legacies, and all kinds of non-lucrative activities and gifts (Article 3). The Law has generally very restrictive norms about political parties' financing from private resources in the sense of exaggerated limitation of the amount of resources which political parties can collect from private resources.

Budget resources are used for financing of: regular work of political parties; work of deputies in the Parliament of Montenegro, or representatives in local government parliaments; election campaigns for election of deputies, representatives, President of Montenegro and mayors. The right upon budget resources is reserved for the political parties, coalitions or groups of citizens who win at least one mandate in local or national elections. Applicants of electoral lists also have the right upon budget resources for financing election campaign (Article 5). Expenses of election campaign resources are given from the Montenegrin budget, in the amount of 0.15% of the current budget in the year in which regular elections are held (Paragraph 1 of Article 11). After the last changes of the Law on financing political parties that have been passed in August 2010, this amount is increased to 0.25% of the budget resources.

According to paragraph 2 of Article 11, budget resources are distributed in the amount of 20%, in equal parts to all electoral lists applicants²², in a period of eight days from the day of electoral list verification. The rest of resources (80%) are given to the electoral lists applicants that have won mandates, proportionally to the number of won mandates. A political party can gather resources for covering expenses of election campaign through private resources, in accordance with this law. The amount of resources from private funds that a party can gather for financing expenses of an election campaign can maximally be twenty times larger than the modest amount of

21 Official Gazette of Montenegro, no 49/08.

22 On last parliament election which resulted in initial funds of approximately 17,000 EUR for each party or coalition that is competing on the elections.

budget resources that are distributed to all electoral lists applicants (paragraph 1 of Article 16).

The Law forbids acquiring material or financial help from foreign countries, legal entities or individuals outside the Montenegrin territory, anonymous donors, public institutions and companies, institutions and companies with the participation of state capital, syndicates, religious organisations, nongovernmental organisations, casinos, bookmakers and other gambling activities. It is forbidden to obtain material and financial help in cash (Article 19). These restrictions are valid for all political parties.

There are no limitations concerning the organizing and funding of political parties of national minorities that would bring RAE under discrimination or an unequal position. There are no legal barriers to their political organizations. However, RAE in Montenegro do not have their own political party. The absence of Roma political parties could also point to the real degree of (non)integration of the Roma in the Montenegrin society. The best political representation for them would certainly be their authentic representatives.

The responsibility on why this is not the case, is partially on the RAE. The reasons why there is no RAE political party in practice may be different. It is likely that a rather small number of RAE are citizens of Montenegro and their percentage of illiteracy is about 80% (according to the census). The existing electoral system does not encourage the political participation of RAE. Besides, they do not know their rights enough and the State is not doing enough to adequately inform them. Also, it is possible that the RAE population in Montenegro has a high degree of discord within itself. In addition to the desired changes to the electoral legislation and other legal acts, the State should take certain measures such as education of RAE voters, empowerment of RAE representatives to release candidacy, etc.

4. Legislation concerning the electoral system and the participation of national minorities in the political life

The electoral system and the authentic representation of national minorities on the Parliament

The Law on Election of Council Members and Members of Parliament regulates the protection of voting rights, elections at all levels and election procedures²³. As mentioned above, this law does not comply with the Con-

²³ Official Gazette of Republic Montenegro, no. 4/98, 5/98, 17/98, 14/00, 9/01, 41/02, 46/02, 45/04 i 48/06.

stitution, although it was applied during the last parliamentary and local elections. Another Law that regulates the electoral right guaranteed by the Constitution is the Law on Registers of Electors²⁴. The comprehensive legal framework that has generally provided an adequate basis for the conduct of democratic elections also includes other laws and regulations²⁵. The most important elements of these laws will be analyzed further in this paper.

The electoral system is proportional, with closed electoral lists and the citizens do not vote for particular candidates, but for the lists. The electoral census is 3%, and the electoral lists (political parties, coalitions and groups of citizens) that won under 3% of the total number of votes are being written off, and deputies' places are distributed to the remaining electoral lists. The Constitution establishes a unicameral Parliament of 81 deputies, elected for a term of four years. During the distribution of mandates in the Parliament of Montenegro, the d'Hondt method is used. Usually, the two political parties with the largest number of votes benefit from it. Such electoral census poses indirect discrimination towards the RAE population. This census is in direct contradiction to the effective implementation of the constitutional guarantees to the minority nationalities' members and to other national minority communities. According to the article 79, paragraph 9 of the Constitution, there is right to "... authentic representation within Montenegrin Parliament and within local governing councils in municipalities where they make a significant part of population according to a principle of affirmative action". However, according to the article 12, paragraph 3 and article 4 of the Law on the Election of Council Members and Members of Parliament, authentic representation is predicted, by the quoted principle, only for the members of one nationality – Albanian. Thus, the threshold question must change in the new Electoral law and this law must effectively develop the application of "authentic representation of minorities in Parliament". The last parliamentary and local 2009 elections were realized according to this Law.

The elections are free, direct and multi-party, the voting is done secretly. For the registration (approval) of an electoral list, it is necessary to submit support signatures of 1% of electorates (about 4 200) or for local elections 1% of electorates from the municipality to the Montenegrin State Commission. This does not apply to electoral lists of the Albanians in Montenegro, who are required to submit only 1000 signatures of support or 200 signa-

²⁴ Official Gazette of Montenegro, no 40/08.

²⁵ Law on Political Parties (2004), Law on Financing Political Parties (2008) Law on Registers of Permanent and Temporary Residence (2008), Law on Citizenship (2008), Law on Public Meetings (2005), Criminal Code (2004), Law on State Administration (2003), Law on Political Appointees and Civil Servants (2008), Law on the Constitutional Court (2008), Law on Administrative Proceedings (2003), various media and broadcasting laws, and decisions and regulations of the State Election Commission.

tures in the case of electoral lists for local elections (Article 43).

In this way, the minority representation in the Parliament is not resolved, except for the Albanians. The Montenegrin Constitution preamble enumerates nationalities that live in Montenegro: "...Montenegrins, Serbs, Bosniaks, Albanians, Muslims, Croatians and others ...", and define them as: "... free and equal citizens, members of nationalities and national minorities who live in Montenegro." Therefore, Montenegro is a civil state that guarantees absolute equality to all ethnic communities who live in it. The consistent application of constitutional guarantee of "authentic representation" of minorities in the Parliament according to the principle of "affirmative action" should allow at least one representative of the RAE in the Parliament (similar to the model used for the Albanian representation, and possibly with lower number of signatures). However, it is not clear at all that the electoral system is the sole reason why there is no political representation of RAE in Montenegro. But it is certain that this electoral system is not favorable for numerically small minorities.

Participation of national minorities in state and local authorities

The question of a proportional minority representation within state and local authorities is in fact not solved, although it is regulated on the level of basic constitutional category. There is not even any approximately reliable statistical information that would show the factual situation. The minority aspect is not processed in existing personnel records, almost all institutions do not have this information, although the Law on state officials and employees prescribes obligation of evidence about national structure of employees within state and local governing.

According to the statistics of The Personnel Directorate, which is incomplete, there are 81% of Montenegrins working within state administration. In addition, according to the information from the census made in 2003, there are 43.16% of Montenegrins in the country. The difference between ethnical community representation on a national level and number of workers - members of this ethnical community - in state and local government is the largest in the case of Serbs, but it also affects national minority communities including RAE. Accomplishing proportional representation of minority members is first of all a matter of political will. The existing Constitutional provision²⁶ and Law on Minority rights²⁷ provide a sufficient legal framework to do this.

26 Article 79, item 12.

27 Article 22.

The participation of ECVRD in the public life of Montenegro

RAE in Montenegro have neither their own political party, nor representatives in the Government or Parliament. Only one member of the Roma minority is an exception - Mrs. Nedzmina Berisa, member of the local council in the capital, Podgorica. A certain percentage of RAE²⁸ still do not possess all personal identity documents, which means that they are not able to register to vote.

Roma without identification documents are usually internally displaced persons (we will talk more on this issue further in answer 8). Domicile Roma in Montenegro have generally no difficulties with personal documents. The authorities recognize that there is a certain number of domiciles Roma who have no identity documents, but there is no official data on the exact number. (It is likely to be about several hundred people, not a thousand people.) A reason for this is the poor integration of RAE in the Montenegrin society, similarly as in all other countries in the region and even in Europe. The improvement of RAE inclusion is still expected in the future in Montenegro. Some improvements are perhaps already visible in some spheres (such as education) and more apparent than in some other areas (e.g. political participation).

Another interesting point with regard to the public participation of RAE is the Roma National Council. It was formed in 2008, in accordance with the Law on Minority Rights and Freedoms. Article 33 of this Law regulates that the minorities and their members may establish a Council, with the aim to improve their minority freedoms and rights. Each minority can elect only one Council that has from 17 to 35 members who are elected for a period of four years. Each Council is made of deputies from minority list, Government members recommended by the representatives of this minority list, community presidents in which the minority forms a majority and other deputies and members of Governments, as well as community presidents from respective minority who want it, presidents of minority parliamentary politic parties, and presidents of minority parties councillor clubs. Other council members are elected by secret ballot on the electoral assembly. The members of Council elect a president and secretary of the Council by secret voting. The Council brings the budget, statute and rules of its work, with which important questions for its work are regulated.

28 This is an assumption of national and international organizations, since there is no precise data.

The Roma Council has 17 members and all of them have been elected at the electoral assembly. The funds needed for the work of the Roma Council are provided from the budget. The budget for 2009 was approx. €35.000. Article 34 regulates that with the registration in the Ministry, the Council becomes a legal entity.

Article 35 of the Law specifies the role of the minority Councils: it represents and advocates the minority; submits proposals to public authorities, local government authorities and public services for the enhancement and development of the minorities rights; submits initiatives to the President of the Republic not to promulgate a law which infringes minorities and their members' rights; participates in the planning and establishing of educational institutions; gives opinion on the subject curricula that exhibit particularities of minorities; proposes enrollment of a certain number of students at the University of Montenegro; begins initiative for the amendments of regulations and other acts that lay down the rights of minority members and conducts other affairs in line with this law. This Council has not managed so far to bring large changes in the position of RAE. For example, it does not try to pose any demands regarding the new Electoral Law.

With regard to the local self-governance, the municipal assembly elects 30 members plus one member for every 5,000 voters. The number of members determines the municipal assembly by a special decision before the election (Article 3). During the elections on a local level, each municipality is a unique electoral unit (Article 12 paragraph 1). The provisions on the electoral system, in principle, also apply to local elections, as explained above. During the elections, the poll ballots are printed in the minority language in places where minorities live in substantial numbers. In practice this right is used only by the Albanians²⁹. RAE population is usually too small and dispersed to take advantage of this provision. Still, there is place for the application of this provision at least in the polling stations they use. The RAE non-governmental sector in Montenegro is small and it consists of two informal networks that bring together about 30 Roma and pro-Roma organizations that deal with issues which specifically affect the Roma, Ashkali and Egyptians. The members of the National Council of Roma are mostly activists of these nongovernmental organisations.

Yet, within the RAE NGOs new leaders have appeared and they are neither satisfied with the achievements of the state, nor with the policies and the ways in which current leaders of the RAE represent their interests. In the future a more rapid emancipation of the RAE can be expected, and their requirements will become much clearer and more articulated, if not radical.

29 Article 11, Law on Minority Rights and Freedoms.

4. Regulation concerning the geographic boundaries of electoral units

The Law on Election of Council Members and Members of Parliament establishes the borders of the electoral units. The State electoral commission has no authority concerning the determination of electoral units' borders. The Law regulates the attitude and the jurisdiction of State and Local electoral commissions. According to the Law on Election of Councilors and Members of Parliament, during the parliamentary elections Montenegro is divided in two electoral units. In one of the electoral units the Albanian minority constitutes the majority of the population and it gives five mandates in the Parliament. The rest of Montenegro is the second electoral unit with 76 mandates. Special polling stations (on the territory where Albanians are majority) provide preference treatment in the electoral process only for them. **This was enabled by a special decision of the Parliament in accordance with the Law on the Election (Article 12, paragraph 3).** The existence of these two electoral units helps Albanians, but this legislative solution does not help RAE. **The Electoral law** was passed when Montenegro was in the State Union of Serbia and Montenegro. Roma minority on the basis of their numbers could not get any benefit from these electoral units. But it does not mean that the regulation of electoral units will not change, because the new law which is supposed to regulate this is expected by the end of December 2010. On a local level, during the election of local governance representatives, each municipality is a unique electoral unit (Article 12 paragraph 1).

The regulation concerning the electoral units does not bring any particular advantages or disadvantages for RAE. A bigger problem for organizing the Roma minority is the fact that this minority is not present in significant number in any local community. The census of the population shows that members of these minorities live scattered in ten municipalities where they are participating with about 0.5% in population's composition. Although these are mostly neighbouring municipalities, the redrafting of borders would not bring dramatic improvements. Anyway, further changes of the municipal boundaries are not expected. In these cases, generally, minorities have weaker chances to be adequately represented and it is harder to find adequate electoral model for them. An exception is the capital Podgorica where 0.83% Roma live according to the results of the 2003 census.

Guaranteed place in national Parliament for one representative of Roma minority was requested by few Roma representatives in Montenegro many years ago. (Ivan Toskic, Director of the NGO “Roma Initiative of Montenegro”, Azem Berisa, Director of the NGO “The Association of Roma settlements below Trebjesa”).

6. Fair conduct of elections

The last elections were administered by the State election commission (SEC), 21 Municipal Election Commissions (MECs), and 1,155 Polling Boards. All electoral bodies have a ‘permanent’ composition of appointed members and an ‘extended’ composition that includes authorized representatives of all registered candidate lists, who serve on a temporary basis. The SEC has eleven members, MECs have seven members. The SEC’s permanent members are appointed by the Parliament, while MECs are appointed by the municipal assemblies. The Election Commissions have four year terms and they are responsible to their appointing bodies³⁰.

The Law on Election of Council Members and Members of Parliament provides that the two opposition parties that won the largest number of votes in the respective assemblies during the last elections are entitled to appoint one permanent member each to the three levels of the election administration. However, the legislation does not regulate the political composition of the other commission members; in practice, these members are considered to be appointees of the political majority in the assemblies. While the right of opposition parties to appoint election commissions promotes pluralism, transparency and inclusiveness, the numerical strength of the political majority allows it to control the functioning of the SEC and MECs until the extended composition is appointed³¹. The status of authorized representatives (extended members) is not defined clearly in the law and they joined the SEC and MECs after many decisions had already been made. Nevertheless, their inclusion in the work of election administration bodies is important to promote transparency³². Moreover, because all commission members enjoy equal voting rights, their appointment can alter the political balance of election commissions and influence the outcome of issues put to a vote, such as rulings on complaints.

30 Article 25 and 30, the Law on the Election of Councillors and Members of Parliament.

31 Article 31.

32 ODIHR election observation mission report <http://www.osce.org/odihr-elections/documents.htm>

In general, the election administration enjoyed a high degree of confidence and the Election Day is normally professionally organized. There is also a high degree of transparency regarding commission activities³³. The mission of the OSCE responsible for the election monitoring announced after the last elections held in March 29th 2009 that the parliamentary elections met almost all standards of OSCE and Council of Europe, although this process has once again highlighted the need for further democratic development.

Having in mind that RAE normally do not participate in the elections, it is clear that the fair nature of electoral bodies has little influence over them. Still, having in mind that the commissions are normally dominated by the big political parties, the changes which advantage the smaller political entities may benefit them (under condition that RAE begin actively participating in the elections, having their list of candidates etc).

The protection of the voting rights, provided by the election commissions (State Electoral Commission and Municipal Election Commissions), is also under supervision of the Constitutional Court of Montenegro and the competent courts³⁴. The Law on the Election of Council Members and Members of Parliament does not comprehensively regulate the procedures for all types of election-related complaints, including disputes regarding election administration, campaigning, media coverage, and campaign financing and expenditures³⁵. The Law does not provide adequate guarantees of the due process in the complaint process, and does not ensure open complaint hearings, opportunity for all sides to present cases, and the right to full legal reasoning of decisions could be further improved. Some deadlines in the law for consideration of complaints and submission of appeals are too short to guarantee due process (24 hour and 48 hours)³⁶. There is no legal department responsible for providing opinions and interpretations of the Election Law and advising on complaints in the State Election Commission³⁷. The appeals against decisions of State Election Commission are resolved by the Constitutional Court³⁸. In case more RAE happen to be on candidate lists in future, the rectification of these shortcomings would be beneficial for them.

33 Ibid.

34 Article 8.

35 There are some articles in the law, Section 9 provisions of protection, article 106- 111.

36 Article 109.

37 Reports of OSCE Mission in Montenegro.

38 Article 149, item 7 of Constitution, and Article 110, paragraph 2 of Law.

7. Internally Displaced Persons (IDPs) and Refugees

It is estimated that there are about 22 000 internally displaced persons and refugees in Montenegro³⁹. It has been noted that out of this number, 16197 are displaced persons who fled from Kosovo while Montenegro was an integral part of Federal Republic of Yugoslavia. Those were mainly Montenegrins, Serbs, Roma, Ashkali, Balkan Egyptians, Muslims and Bosniaks. Apart from them, the Government also recognised as a special category 5.648 refugees from Croatia and Bosnia and Herzegovina who fled to Montenegro in 1991 and 1992⁴⁰. According to the official data of the High Commissioner for Refugees and Displaced Persons in the Government of Montenegro, there are 4 316 Roma, Ashkali and Egyptians among internally displaced persons from Kosovo who have come in Montenegro since 1999. Refugees and displaced persons do not have the right to vote in Montenegro. Every citizen with a Montenegrin citizenship upon reaching 18 years of age acquires the right to vote. Besides, they must be residents in a particular municipality where they votes for a minimum of two year⁴¹. The two-year residency requirement is not consistent with the principle of universal suffrage. The right to elect and be elected should be given to all citizens as a fundamental human right, and all practical issues related to the implementation of this right should be defined in legislation. According to good international practice, a length of residency requirement should not be imposed on citizens for national elections, and for local elections it should not exceed six months⁴².

The Law on citizenship (adopted in 2008) regulates the obtaining of Montenegrin citizenship. Conditions for the acquisition of the citizenship are not considered to be problematic from the standpoint of international human rights standards. Apart from this, the Law predicts special conveniences for displaced persons from ex Yugoslav republics (including RAE), for obtaining Montenegrin citizenship. International agencies have repeatedly called on Montenegro to facilitate citizenship for displaced persons and refugees. These exemptions are stipulated in the Law on citizenship, but the question whether they are good enough for RAE, who are the most vulnerable among these categories of persons, still remains.

³⁹ The Commissioner for Refugees and Displaced Persons of the Government of Montenegro- the data for 2009.

⁴⁰ Number of refugees and displaced persons was taken from the Report of the European Commission on the progress of Montenegro in 2009.

⁴¹ Article 45 of Constitution.

⁴² European Commission for Democracy through Law (Venice Commission), “Code of Good Practice in Electoral Matters”, see Guideline I, “Principles of Europe’s electoral heritage.”

The Law is restrictive when it comes to double citizenship and it forbids it, unless some exceptional cases occur, but this is not of big importance for RAE minorities. Some RAE do not have identification documents, and they face a particular problem. These persons can not practically exercise their human rights. There is no official estimate of how many of these people exist in Montenegro.

RAE are generally settled and there is no data about nomadic RAE. There are some individual cases of RAE who move from city to city due to difficult living conditions, and seek sources of earnings.

Thus, it may be said that particular measures should be taken in order to provide RAE with personal documents and facilitate their exercise of voting and political rights. The facilitating of obtaining of citizenship is also recommendable. For these reasons, the State should begin ground work in order to obtain information on the exact numbers of these people.

8. The procedure of changing the electoral laws

The laws regulating the electoral system are not easy to change and the approval of national minorities having representatives in Parliament is “de facto” very important for their adoption. The Constitution stipulates that the Parliament decides with 2/3 majority vote of all deputies on laws regulating the electoral system⁴³. This constitutional provision has already led to problems in the practice because the new Law on the Election of Council Members and Members of Parliament can not be provided with the necessary majority in the Parliament for nearly three years. The laws governing the actualization of acquired minority rights are approved in Parliament which decides on the first ballot with 2/3 of majority or at the second ballot a majority of all deputies at the earliest after three months.

The consent of the ethnic communities (including ECVRD) should be envisaged as a part of the procedure of changing electoral laws. If RAE obtain their guaranteed seat in the Parliament, have political parties and offer their candidates, it would benefit them to change the rules for changes of electoral laws, so that the new formula takes their voice into consideration with regard to the changes of the electoral legislation.

43 Article 91.

Protection of minority rights

The Constitution guarantees equality before the law, so everyone has the right to equal protection of the rights and freedoms. The courts protect the rights and freedoms of all citizens without discrimination⁴⁴.

The Ombudsman was established as an independent institution in 2003. According to the current legal provisions, the Ombudsman has two assistants, one of which deals with the protection of minority rights. The Ombudsman has no specific authority in terms of elections, but he has jurisdiction in cases where the institutions of the state authorities have violated the human rights and freedoms.

The Ministry of Human and Minority Rights is the main administrative institution that takes care of the realization of the rights of minorities. Generally speaking, the issues that directly relate to the RAE population are the subject of institutions working within the framework of its activities related to minority issues in general, where the Ministry for human and minority rights takes a primary role. The Ministry has no special influence in the elections and election law.

One could not tell that the Government and its authorities have developed forms of consultation with the Councils of national minorities (see above), although the Law on minority rights and freedoms has prescribed such role for it. The RAE community itself, i.e. its representatives (Roma Council), do not have enough developed expertise and institutional capacity to effectively represent the interests of their communities, as they have effectively limited political power and influence. Only few members of the Council are educated and they have no prominent roles in the Council. The Council of the Roma has competencies in the fields of representation, education, language and script usage, preservation and development of culture and information in the Roma language. It is obvious that it does not have the necessary technical and institutional capacity to implement its duties. The Council does not have a professional service, and on the level of institutional arrangements it is impossible to determine whether, when and how it participates in decision-making in areas related to its competence. The funds that the State provides for the operation of this Council are small and insufficient to strengthen its capacity. At the moment, the Council has limited political influence. Its influence on electoral/political rights issues is almost absent.

A stronger insistence by the Ombudsman with regard to the RAE politi-

44 Article 17.

cal rights, as well as the enhancing of the capacity of the Roma Council would be beneficial.

9. Legal framework for the media during elections

The right to being informed, without discrimination, is guaranteed by the Constitution and laws in line with international standards on human rights and freedoms⁴⁵.

Article 58 of the Law on the Election of Council Members and Members of Parliament stipulates that “all submitters of electoral lists and candidates on those lists shall be entitled, during the election campaign, under the same conditions, to organize conferences and other public gatherings that present and promote the electoral programs, electoral list and the candidates on those lists, in accordance with the regulations on public order and peace”.

Article 59 of the Law stipulated the obligation of Public Media (whose founders are state or municipality), in compliance with their financial and technical capabilities, during the election campaign to inform under the same conditions about the activities of all applicants from the electoral list from all their conferences and other public meetings organized. Also, they are required to set the agreement with the applicants from the electoral lists with regards to the manner and conditions of preparing the report from public assembly, as well as to prescribe deadlines to applicants by which they should inform the media about the public assembly.

The obligations of Radio Television of Montenegro (the national public service) are prescribed with the provisions of Articles 51 and 53, according to which this Television is obliged throughout the election campaign, in the politically informative program whose availability and visibility is provided across the entire territory of Montenegro, to ensure the in same duration and same time the presentation of submitters of electoral lists, as well as presentation and reasoning of the electoral program. During the election campaign, this television is bound to announce promotional meetings of submitters of electoral lists for free on such terms and conditions to ensure equal treatment.

In accordance with the provisions of Article 64 of the Law, private media are obliged to adopt a code of conduct in order to achieve a fair and balanced editorial policy, and concurrent i.e. equal representation of applicants and candidates from electoral lists.

45 Art 49 and 79 of Constitution.

The minorities have the right (Article 12 of Law on Minority Rights and Freedoms and provisions of Media laws) to establish the media who broadcast in minority languages. For example there are over ten media (Radio, TV and press) who broadcast in Albanian language⁴⁶. The Government of Montenegro provides financial support these media in accordance with the possibilities. While certainly there is lot of space to promote these rights in practice.

No political party of the Roma minority in Montenegro has been established, or participated in the elections so far, and there has been no such representative on the lists of existing parties. Therefore there is no information about how the legal norms are practically implemented when it comes to this minority. Thus, the position of the Albanian (and other minorities) and the Roma minority in Montenegro cannot be compared with the position of other peoples.

Conclusion

It is always difficult to envisage legal mechanisms which would protect the political participation of minorities which count few thousand people, as it is the case with RAE and other ECVRD in Montenegro. Minorities living in Montenegro are substantially very different - in size, in educational structure, in the degree of organization, and the time when they acquired the status of minorities. RAE are in many ways quite distinct, and many of the problems they face are due to stigma, which is the cause of hidden or explicit discrimination (which has no basis in any legal norm). The existence of numerous policies and modest results in improving the situation of Roma is the result of the gap between promises on paper and lack of political willingness, ability, knowledge and financial resources to improve the situation of RAE. The biggest problem of the RAE is real (in) ability to access the rights that are guaranteed them as citizens (individual rights and freedoms) and as members of the RAE minority. The Roma representatives (Roma Council), do not have a developed expertise and institutional capacity to effectively represent the interests of their communities, where they have are effectively limited political power and influence. Thus, one conclusion is that the political participation of RAE would rather derive from a prolonged and consistent process of education, awareness raising and improved economic position.

46 The first report of Montenegro on the Implementation of the Framework Convention on Minorities.

However, as we know, the law and the socio-economic context are intertwined. Thus, one can imagine that in order to achieve emancipation, some legal changes are necessary. Most important of all, the legislation on elections must change with regard to the number of signatures necessary to submit the candidate lists. Also, the Constitutional article about the authentic representation should be implemented in order to provide RAE with a guaranteed seat in the Parliament.

Otherwise, the analysis of the legal framework shows that Montenegro is a civil state that guarantees equality to all ethnic groups. The Constitution and laws mainly satisfy the international standards concerning the human rights and freedoms and minority rights⁴⁷. The implementation of the legal framework remains to be improved⁴⁸. The legal safeguards provided by the courts and the ombudsman should be enhanced. The political participation of minorities is only partly in accordance with international standards for protection of minority rights and with Montenegrin Constitution. Existing solutions, based upon principles of affirmative action, are essentially concerning only one minority (Albanians), while the other minorities do not benefit from it.

Recommendations

1. In order to obtain relevant data on the number and dispersion of RAE, the Government and the Bureau of Statistics (Monstat) should take special measures during the next census, such as the involvement of RAE member among the polltakers and members of census commissions. Apart from their obvious importance for creating policies, the statistical data are important to prove cases of indirect discrimination in laws and practices.
2. On the basis of these and other data, the position of persons without personal documents should be solved, as well as the position of refugees and displaced persons. The personal documents will enable them to use their voting right and other political rights.
3. It should be investigated if the residency requirement of 24 months in order to achieve electoral rights has disparate effect on the RAE. If so, the Constitutional provision/ legislation should be changed, as to avoid indirect discrimination.
4. The Government and other Strategies and official documents should make it clear that they refer to the entire RAE population and not only

⁴⁷ The Advisory Committee on the implementation of the Framework Convention for the Protection of National Minorities in Montenegro, Opinion on Montenegro, Adopted on 28 February 2008.

⁴⁸ Ibid, 22.

Roma, in order to avoid discrimination. The minority councils should be called RAE and not Roma.

5. The most important change should be the harmonization of the electoral legislation with the Constitution from 2007. The Electoral law must develop clear and effective provisions on “authentic representation of minorities in the Parliament” in order to guarantee a Parliament seat. The number of signatures necessary for the submission of candidate lists should be lowered, in cases of local elections. It would not be beneficial to lower the 3% census on the electoral lists which win a Parliament seat, as it would require change of the entire model of Parliamentary elections. RAE would not benefit it, as they are not numerous anyway and at the moment they do not have any political party.

6. Representatives of ECVRD should be present in all election bodies and commissions.

7. Adjudicatory mechanisms with regard to the elections should be strengthened.

8. During the elections, the poll ballots are printed in the minority language in places where minorities live in substantial numbers, but in practice this right is used only by the Albanians. RAE population is usually too small and dispersed to take advantage of this provision. Still, there is place for the application of this provision at least in the polling stations that they use.

9. It is necessary that ECVRD participate in the changes of electoral legislation. A formula should be envisaged that enables them to use a guaranteed seat in the Parliament with a necessary consent during the adoption of this kind of legislation. Otherwise, some other form of consultation with Roma and other minorities' councils may bring some advantage.

10. The State should take certain measures such as awareness raising and education of RAE voters and empowerment of RAE representatives to release candidacy and organize themselves politically.

11. The Law on Minority Rights and Freedoms should provide additional provisions about minorities' participation in the public life.

12. Effective forms of advising and consultation should be developed between the Government and other bodies and the national minorities, including the Roma National Council;

13. The State should financially support the development of professional and institutional capacities of the Roma Council to effectively represent the interests of its ethnic communities;

14. The Ombudsman should be permanently engaged with respect to

the rights of RAE, the elimination of discrimination against RAE should form a separate topic in its operations and reporting;

15. The State should obtain exact data on the members of all minorities employed in all levels of administration. Care should be taken to provide employment of members of RAE both on Government and local level. Accomplishing proportional representation of minority members is first of all the matter of political will. The existing Constitutional provision⁴⁹ and Law on Minority rights⁵⁰ provide a sufficient legal framework to do this.

16. The legislation and all current policies in the areas of political participation, education, information, culture, official use of language and media should be critically analyzed in terms of their minority sensitivity, and their effectiveness assessed in terms of measures which contribute to the achievement of minority rights;

49 Article 79, item 12.

50 Article 22.

SERBIA

The Effective Participation of ECVRD in the Public Life of Serbia

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1. The general position of ECVRDs in Serbia

The situation of ECVRD in the Republic of Serbia reflects the condition of the EVCRD in the Western Balkans and in the wider area of Eastern Europe. In that regard, it is justified to claim that ECVRD are subjected to various forms of discrimination both institutionally and socially. The main types of problems that the ECVRD face can be sorted in four basic categories: education, employment, housing and health protection.

Additional issues, specific for the region of the Western Balkans, are related to the status of internally displaced persons and readmission of refugees. Aside these major categories, there are also numerous specific and idiosyncratic forms of discrimination characteristic for specific localities and circumstances.

In general, the ECVRD population in Serbia is often faced with acts of discrimination and violence. However, it must be underlined that these acts are neither systematic nor organized and, overall, there is no institutional support for discrimination of ECVRD. Although there are several organizations propagating hatred against ECVRD (mostly against Roma), these groups are part of the extreme right fringe which does not have state support or foothold in the party system. Nevertheless, there were several major incidents with regard to the ECVRD in Serbia's recent past. The more notable incidents against ECVRD include: forced eviction of Roma from Novi Beograd's Block 67 on April 3rd 2009¹; racially motivated unrests in the period between 10th and 15th June 2010, following a criminal incident in the village of Jabuka (near the city of Pančevo)².

In this paper, the factors that affect the participation of ECVRD in the public life of Serbia will be analyzed. Firstly, we will discuss the groups of ECVRD and their general demographics.

Secondly, we will take the legal framework, in which ECVRD currently operate, into Union of Balkan Egyptians account. Thirdly, we will analyze in details the effects of the electoral system on participation of ECVRD in the public life of Serbia. Fourthly, we will discuss the party system and parties of ECVRD.

An expert survey was conducted as part of this research. The results of this survey will be discussed in a separate section.

Finally, we will give condensed presentation of the research finding and we will give several recommendations.

1 <http://www.hrw.org/en/news/2009/04/08-serbia-forced-evictions-romani-community-belgrade>

2 http://www.b92.net/eng/news/society-article.php?yyyy=2010&mm=06&dd=15&nav_id=67810

2. Who are the members of the ECVRD

2.1 Population of ECVRD

The exact population and composition of ECVRD in Serbia unknown. The official census of the Republic of Serbia from 2002 recognized three groups of ECVRD: Roma, Ashkali and Egyptians. According to this census, the populations of these communities are 108,193, 814 and 584, respectively. However, these figures are now generally considered incorrect. There are some sources of bias in these estimates. Firstly, the census was not conducted on the territory of the Autonomous Province of Kosovo and Metohija (Kosovo), which has significant population of ECVRD. Secondly, the conflicts on the territory of former Yugoslavia have displaced many members of ECVRD, and consequently many of them are considered to be refugees or internally displaced persons. Thirdly, many members of the ECVRD are de facto stateless due to the lack of recognition before the law (mostly caused by lack of identification documents). Fourthly, due to the general atmosphere of discrimination, ECVRD are reluctant to declare their ethnic origin, and would rather adopt one of more socially acceptable categories. This is a phenomenon of the so called ethnic mimicry characteristic for ECVRD in the Western Balkans³.

Each of the aforementioned groups in detail will be discussed in detail.

2.2 Roma

Roma is the largest population of all ECVRD in the Republic of Serbia. The official census population totals for the former Yugoslavia are as follows: 72,736 (1948); 84,713 (1953); 31,073 (1961) and 169,197 (1981)⁴. According to the 1991 census, 70,126 Roma lived in Serbia properly (without provinces), while on Kosovo and Metohija there were 45,745 and 24,366 Roma lived in Vojvodina. In central Serbia, the most concentrated populations of Roma are to be found in the regions of Sothern Morava and Niš. In some municipalities, such as Surdulica, Bujanovac, Bojnik and Vladičin Han, they comprise more than a third of the whole population. Estimates of the size of the current population vary. A survey from 2002 has shown that

³ Marushiakova Elena, Vesselin Popov, New Ethnic Identities In The Balkans: The Case Of The Egyptians: 470.

⁴ Petrović, Ruža, The migration of Serbs and Montenegrins from Kosovo and Metohija : results of the survey conducted in 1985-1989, Srpska akademija nauka i umetnosti, Beograd, 1995.

at least 270,000 Roma live in settlements across the country.⁵ However, a commonly quoted estimate is that up to 450 - 500,000 Roma live in Serbia⁶.

Overall, it is not clear if these figures include only Roma, or if they also refer to other ECVRD, most notably Egyptians and Ashkali. An additional problem is the conflict among some members of these three communities accusing each other of separatism or forced assimilation⁷. Generally, despite the official recognition of the different ECVRD, there is a tendency to generalize different ECVRD as Roma, which additionally fuels the conflict. There are two Romany dialects in Serbia: Gurbet and Arli. The first one is spoken largely by Orthodox Roma in central Serbia and Vojvodina and is substantively influenced by the Serbian language. The second one is spoken by Roma of Islamic religion, most of who live in Kosovo and Metohija. This dialect was developed under the strong influence of the Albanian and the Turkish language. The difference between the Gurbet and Arli dialects is substantial. In addition, there are smaller groups within both linguistic groups, who use their particular vernacular⁸.

2.3 Egyptians

Unlike Roma, who were recognized in the official census right after World War II, Egyptians were recognized for the first time in the Yugoslav census of 1991. However, due to the outbreak of the conflict in SFR Yugoslavia, the census was not fully performed and the exact population of Egyptians still remains unknown. We can say that at least 15,000 members of ECVRD have registered as members of the society, calling themselves Yugoslavians of Egyptian descent⁹. However, there is no reliable estimate of the population of Egyptians in Serbia. The exact size of the population probably exceeds the figure in the census. An indicator of this matter are the recent elections for National Minorities' Councils. Namely, while only 584 people declared themselves as Egyptians in the census, the separate voters registry (used for the election) comprised 1549 voters.

5 Jakšić, Božidar. Bašić, Goran, Umetnost preživljavanja, Gde i kako žive Romi u Srbiji, Beograd, Institut za filozofiju i društvenu teoriju, Beograd, 2005.

6 Jednak pristup kvalitetnom obrazovanju za Rome: Srbija, Institut za otvoreno društvo, Program EU za monitoring i zastupanje prava, 2007.

7 Marushiaкова, Elena et al. Identity Formation among Minorities in the Balkans: The Cases of Roms, Egyptians and Ashkali in Kosovo. Sofia: Minority Studies Society "Studii Romani", 2001.

8 Minorities in Serbia, Helsinki Committee for Human Rights in Serbia, 2000: 54-63

9 http://www.asylumlaw.org/docs/yugoslaviafederalrepublic/mar99_yugoslavia_roma.pdf

2.4 Ashkali

Ashkali are culturally very similar to Egyptians in the sense that both groups speak the Albanian language and are predominantly Muslim. There is a sort of contest between these two minorities over potential members. Correspondingly to Egyptians, the number of registered voters for the elections of the National Minority Council the number of Ashkali exceeded in the census – 1148 voters.

The members of Ashkali NGOs claim that the number of Ashkali surpasses 50,000¹⁰. Nevertheless, there is no reliable evidence in order to accurately estimate the current population.

2.5 Kosovo and Metohija

With regard to the population of ECVRD on Kosovo and Metohija, international institutions cite different numbers, varying usually between 20,000 and 30,000 Roma, Egyptians and Ashkali¹¹. In 1993, the Association of Egyptians conducted its own census in Kosovo and Metohija. According to this census, there were approximately 120,000 Egyptians in Kosovo and Metohija. On the other hand, there are estimates that in September 1998 there were 97,000 Roma and 41,000 Egyptians living in Kosovo and Metohija. According to these sources, after June 10th 1999 62,000 Roma and 21,000 Egyptians left the province¹². Nevertheless, the situation on Kosovo and Metohija is similar to the situation in Serbia in general – there are no reliable estimates.

2.6 Other ECVRD

Besides these three major ECVRD, there are several other smaller populations which are not reported in the last census. Firstly, there is a small population of Turkish speaking Gypsies who declare themselves Turks. There are also Banjsha and Gurbeti communities. In February 2001, in Istog/Istok municipality (Kosovo and Methoija), a Magjup Association

¹⁰ <http://www.rts.rs/page/stories/sr/story/125/Dru%C5%A1tvo/250161/A%C5%A1kalije,+manjina+me%C4%91u+manjinama.html>

¹¹ Marushiakova, Elena et al. Identity Formation among Minorities in the Balkans: The Cases of Roms, Egyptians and Ashkali in Kosovo. Sofia: Minority Studies Society "Studii Romani", 2001.

¹² Andjelković Zoran, Sonja Scceanović, Guljen Prlincević, Days of terror (in the presence of the international forces) Belgrade : Centre for Peace and Tolerance, Belgrade, 2000.

was founded. Similarly to the three major ECVRD there are no reliable estimates of the size of these populations. In general, they lack political organization and the public in Serbia is not aware of their existence and separate identity.

3. Legal recognition

3.1 The Constitution

The Republic of Serbia adopted a new constitution after the referendum held on October 28th and 29th, 2006. The 2006 Constitution defines Serbia as a “state of the Serbian people and all citizens who live in it, based on ... human and minority rights and freedoms...” (Art. 1).

Therefore, Serbia is defined primarily as a state of the Serbian people. However, citizenship is sufficient for the full protection of rights guaranteed by the Constitution of the Republic of Serbia.

There are no definitions of an ethnic minority in the Constitution and none of ethnic minorities is listed in the Constitution. Although, the Constitution establishes rights of ECVRD’ firstly through the institute of citizenship, it also guarantees persons belonging to minorities “additional individual and collective rights”. Overall, the Constitution guarantees the following rights to minorities: The right to expression, preservation, fostering, development and public expression of national, ethnic, cultural, and religious specificities. The right to use their symbols and their languages and scripts in public, including in specific administrative proceedings. The right to education in their own languages in public institutions and institutions of autonomous provinces. The right to full, timely and objective information in their languages and establishment of their own media in accordance with the law (Art. 79 (1)). Therefore, the Constitution guarantees the collective minority rights. In that regard, persons belonging to national minorities have prerogatives regarding their culture, education, informing and use of language and script.

Consequently, The Constitution guarantees persons belonging to national minorities the right to elect their National Councils in order to regulate the policies regarding these particular issues (Art. 75 (3)). In addition, the Constitution prohibits the encouragement to racial, ethnic, religious or other inequality, hatred or intolerance (Art. 49). Further rights and requirements with regard to minorities are defined in the subordinate legal acts.

3.2 The subordinated legal acts

The protection of minorities is based on the Act on the Protection of Rights and Freedoms of National Minorities, adopted in 2002. This is the central act regarding the protection of minorities. However, the number of laws relevant to the minority rights were enacted in 2009, most notably: the Anti-Discrimination Act; the Act on the National Councils of National Minorities; the Act on Political Parties; the Act Prohibiting Events of Neo-Nazi or Fascist Organizations and the Use of Neo-Nazi and Fascist Symbols and Insignia. In FR Yugoslavia, ECVRD (Roma in particular) had the status of ethnic group. However, according to the Act on Protection of Rights and Freedoms of National Minorities, all groups of citizens who consider or define themselves as peoples, national and ethnic communities, national and ethnic groups, nations and nationalities comprise national minorities.

The Act on the Protection of Rights and Freedoms of National Minorities defines a national minority in the following manner in Art. 2 (1): “a group of citizens of (...) sufficiently representative, although in a minority position on the territory (...), belonging to a group of residents having a long term and firm bond with the territory and possessing some distinctive features, such as language, culture, national or ethnic belonging, origin or religion, upon which it differs from the majority of the population, and whose members should show their concern over preservation of their common identity, including culture, tradition, language or religion.”

The major hindrance in this definition is the linkage of national minority to citizenship. After years of conflicts on the territory of SFR Yugoslavia, Serbia has become a haven of numerous refugees and internally displaced persons. At times estimates ranged from 350,000 to 800,000 people¹³, while the most up to date estimate of the UNHCR is that Serbia hosts 86,351 refugees and 224,881 internally displaced persons¹⁴. Out of this number, it is estimated that 17,000 people are de facto stateless. The issue of ‘legal invisibility’ especially affects internally displaced ECVRD. In practice, thousands of Roma are not recognized as citizens before the law and are, thus, deprived of basic human rights¹⁵.

Major improvements regarding the census were adopted in the recent period as well. At the moment, the recognition of minorities in the census

13 <http://www.arhiva.serbia.gov.rs/cms/view.php?id=1017>

14 <http://www.unhcr.org/pages/49e48d9f6.html>

15 Human rights in Serbia 2009 Legal provisions and practice compared to International human rights standards Belgrade centre for human rights Belgrade, 2010.

is regulated by an amendment of the law on Population, Household and Housing Census under which in the census questionnaire the answers on ethnic or linguistic affiliation will be open-ended. This avoids the imposing of ethnic categories and, in particular, removes the bias of generalizing all ECVRD as Roma.

3.3 National Minorities' Councils

Two crucial institutions for the protection of minority rights are the national minority parties and the National Minorities' Councils. The implementation of collective rights is mostly driven by the work of the National Minorities' Councils. The National Minorities' Councils, as institutions of cultural autonomy, are regulated by the Act on the Protection of Rights and Freedoms of National Minorities. However, the more precise regulation was specified only in August 2009, when the Act on National Councils of National Minorities was adopted. Under the Act, national councils shall participate in the procedure for selecting projects and programs in the fields of culture, education, informing and the official use of languages and scripts of national minorities by way of a public tender. A National Council may establish institutions, associations, foundations, undertakings in the fields of culture, education, information and official use of language and script and other fields of relevance to the preservation of the identity of a national minority (Art. 10 (6)). A national council may initiate (on behalf a person belong to a minority) proceedings before the Constitutional Court, Protector of Citizens, provincial and local ombudspersons and other competent authorities in the event it assesses that the rights and freedoms of persons belonging to national minorities and guaranteed by the Constitution or law have been violated (Art. 120 (12)). National councils may cooperate with international and regional organizations, the state authorities, organizations and institutions in ethnic kin states, as well as take part in negotiations regarding bilateral agreements with ethnic kin states. According to the new Law, the National Councils will have an autonomy in adopting and changing their statutes, financial plans, reports and statements, they will have their own property, they will decide on the name, symbols and seals of the respective National Council and they will adopt their own proposals on national emblems, symbols and holidays. On June 6th, 2010 three National Minority Councils of ECVRD were elected – Roma, Egyptian and Ashkali National Council.

3.4 National minorities' parties and lists

Parties are currently run in accordance with the Act on Political Parties. This Act substituted the Act on Political Organizations, which was the primary regulation of parties until 2009. Today, all political parties must be listed in the register of political parties of the Ministry for State Administration and Local Self-Government. This required re-registration of all political parties. Under the Act, once a political party is deleted from the registry, it ceases to exist. A national minority party is formed by 1000 adult able-bodied citizens. In comparison, regular (majority) parties need 10,000 citizens' signatures to register. The Act on Political Parties defines a national minority party as a party: "whose activities, defined by its Articles of Association, program and statute, are particularly directed at presenting and advocating the interests of the national minority and the protection and promotion of the rights of the persons belonging to that particular national minority in accordance with the Constitution, law and international standards" (Art. 3). By May 2010, 72 parties were registered out of which 42 were parties of minorities. All registered parties of ECVRD are Roma parties. In total, there are five registered Roma parties: Democratic left of Roma (Demokratska levica Roma), Roma Democratic Party (Romska demokratska stranka), Roma party (Romska partija), Roma Party Unity (Romska stranka Jedinstvo), United Party of Roma (Ujedinjena partija Roma)¹⁶. Additional forms of political organization devised as means of electoral competition are the lists for National Minorities' Council elections. Considering the Ashkali national minority list were the following: Ashkali for better Tomorrow (Aškalije za bolje sutra); Ashkali for Salvation, Peace and Future (Aškalije za spas, mir i budućnost), Together (Zajedno).

Concerning Egyptian national minority there were two lists: Egyptians but Together (Egipćani ali zajedno); and Future (Budućnost).

Concerning the Roma national minority there were ten registered lists: Roma Party - Srđan Šajn (Romska partija Srđana Šajn), Vojvodina Roma List – Petar Nikolić (Vojvodańska romska lista - Petar Nikolić), Roma Vote FOR Europe (Romski glas ZA Evropu), Aliance of Roma Associations of Pčinja-Jablanica district – New Roma Movement – Nenad Tairović (Savez društava Roma pčinjsko jablaničkog okruga – Novi Romski Pokret – Nenad Tairović); International Roma Union of Serbia for Better Tomorrow – Mel-

16 <http://www.drzavnauprava.gov.rs/pages/article.php?id=1698>

ache detarjache – Novica Mitić (Internacionalna Romska Unija za bolje sutra – Melače detarjače – Novica Mitić); Roma list for Central Serbia - Nikolić Božidar (Romska lista za Centralnu Srbiju – Nikolić Božidar); Group of citizens of Roma of Serbia – Dragiša Todorović (Grupa građana Roma Srbije – Dragiša Todorović); United Roma – Miša Stojkov, Milan Nikolić (Ujedinjeni Romi – Miša Stojkov, Milan Nikolić); Roma of Serbia – Memišević, Milanović (Romi Srbije - Memišević, Milanović); Roma for European Serbia (Romi za Evropsku Srbiju).

4. Elections

4.1 Parliamentary elections 2000-2010

The electoral rules in Serbia have basically stayed unchanged since 2000. The size of the National Assembly is 250 seats and elections are held every four years. After the initial elections in 1990 (which were based on two-round vote majority) all parliamentary elections were based on proportional allocation of votes to seat. The changes in the electoral rules were mainly in the number of districts, while the allocation formula (D'Hondt) and threshold remained constant (5%).

The downfall of the Milošević regime necessitated early parliamentary elections. The elections were held according to the new Law on Election of Members of Parliament. The biggest change was that instead of a division into 29 districts Serbia, was transformed into one electoral district. This positively affected the proportionality of the outcome.

Table 1. The results of the parliamentary election 2000

PARTIES IN ORDER OF PARLIAMENTARY SEATS	NUMBER OF SEATS	NUMBER OF VOTES	% OF SEATS	% OF TOTAL VOTES CAST
DOS –coalition	176	2,461,142	70	64.4
Socialistic Party of Serbia (SPS)	32	515,923	14.8	13.5
Serbian Radical Party (SRS)	23	324,840	9.2	8.5
Party of Serbian Unity (SSJ)	15	202,547	5.6	5.3
ELECTORATE	TOTAL VOTES CAST	VOTER TURNOUT PERCENTAGE		
6,493,672	3,821,649	58.85		

However, the threshold presented a significant problem for minority parties. Temporarily, this problem was overcome by means of coalition. Namely, the DOS was a broad coalition that incorporated 18 parties and, among them,

some of the parties of national minorities – the Alliance of Vojvodina Hungarians (SVM) and the Democratic Party of Sandžak (SDP). These two parties had 6 and 2 MPs respectively¹⁷. Nevertheless, the coalition did not have any parties representing ECVRD and, consequently, there were no MPs representing these constituencies.

The negative effect of the threshold became apparent during the subsequent elections. Namely, the elections were held after a state of emergency, under conditions of high polarization and general political confusion. Major parties entered the competition without coalitions, while several national minority parties formed the coalition Together for Tolerance. The alliance was formed by the League of Vojvodina, the Social Democrats, Alliance of Vojvodina Hungarians, the Sandžak Democratic Party, and the League for Šumadija. Numerous Roma political parties were involved in the campaign, including the Roma Congress Party and the Democratic Party of Roma¹⁸. Most of them supported the lists of Together for Tolerance and Reformists coalitions.

However, the participation of the Roma voters was rather low even in polling stations located in the Roma dominated municipalities. According to the OSCE report, this might have been a result of the lack of voter information campaign addressing the Roma population, and the fact that a significant number of Roma have not been registered to vote due to unresolved residency status and lack of identification documents¹⁹. Overall, these conditions had grave effects on the representation of minorities. For the first time since 1990, none of minorities had any representatives in the National Assembly of Serbia. Consequently, this was also the case for the representatives of ECVRD.

Table 2. The results of the parliamentary election 2003

PARTIES IN ORDER OF PARLIAMENTARY SEATS	NUMBER OF SEATS	NUMBER OF VOTES	% OF SEATS	% OF TOTAL VOTES CAST
Serbian Radical Party (SRS)	82	1,056,256	32	27.61
Democratic Party of Serbia (DSS)	53	678,031	21.2	17.72
Democratic Party (DS)	37	481,249	14.8	12.58
G17 +	34	438,442	13.6	11.46
Serbian Renewal Movement SPO/ New Serbia (NS)	22	293,382	8.8	7.66
Socialistic Party of Serbia (SPS)	22	291,341	8.8	7.61

ELECTORATE	TOTAL VOTES CAST	VOTER TURNOUT PERCENTAGE
6,511,450	3,825,471	58.79

17 Federal Republic of Yugoslavia Parliamentary Election 23 December 2000 OSCE/ODIHR Election Observation Mission Report

18 Republic Of Serbia And Montenegro Parliamentary Election 28 December 2003 OSCE/ODIHR Election Observation Mission Report 11

19 Ibid.

In order to prevent this type of outcomes in the future, the National Assembly amended the Law on Election of Representatives in 2004 by imposing a lower threshold on national minorities' parties. According to the present rules, the national threshold of 5% does not apply for parties of national minorities. Namely, for a minority party to win a seat in the Parliament the threshold is 0.4% of total votes cast, which depends on the turnout, between 14,000 and 16,000 votes. In addition, national minority parties could register their list for the election obtaining 3000 signatures instead of the usual requirement of 10,000 signatures per registration.

The first elections held under these rules were the 2007 elections. Two ECDVR parties entered the National Assembly: the Roma Party and the Roma Union of Serbia. Both parties had a single Member of Parliament: Srđan Šajn and dr. Rajko Đurić, respectively²⁰. Both MPs were leaders of their respective parties and headed their lists. Nevertheless, one of the remarks made in the OSCE report was low voter registration among internally displaced Roma population²¹.

Table 3. The results of the parliamentary election 2007

PARTIES IN ORDER OF PARLIAMENTARY SEATS	NUMBER OF SEATS	NUMBER OF VOTES	% OF SEATS	% OF TOTAL VOTES CAST
Serbian Radical Party	81	1,153,453	32.4	28.59
Democratic Party	64	915,854	25.6	22.71
Democratic Party of Serbia-New Serbia	47	667,615	18.8	16.55
G17 Plus	19	275,041	7.6	6.82
Socialist Party of Serbia	16	227,580	6.4	5.64
Liberal Democratic Party-Civic Alliance of Serbia-Social Democratic Union-League of Social Democrats of Vojvodina	15	214,262	6	5.31
Alliance of Vojvodina Hungarians	3	52,510	1.2	1.30
List for Sandžak	2	33,823	0.8	0.84
Roma Union of Serbia	1	17,128	0.4	0.42
Albanian Coalition from Preševo Valley	1	16,973	0.4	0.42
Roma Party	1	14,631	0.4	0.36
ELECTORATE	TOTAL VOTES CAST		VOTER TURNOUT PERCENTAGE	
6,653,378	4,029,286		60.56	

However, the mandate of this National Assembly was to be shortened due to the need of adopting the new Constitution. The situation necessitated reelection of the National Assembly. Consequently, in this short period (less than year and a half) representatives of ECVRD in the National Assembly were not exceptionally visible. This was also partly due to the intensive discussion over the content of the new Constitution.

The pre-term elections were held on May 11th 2008. Generally, the elec-

20 http://www.rik.parlament.gov.rs/latinica/propisi_frames.htm

21 Republic Of Serbia Parliamentary Elections 21 January 2007; OSCE/ODIHR Election Observation Mission Report

tions had an increased participation of parties rooted in national minorities. One of the issues that had affected campaign of minorities was the requirement to collect 10,000 rather than 3,000 signatures as in the 2007 elections. Although national minority parties reported difficulties to do this, nearly all of them were able to fulfill this provision of the law. Three Roma parties participated in the election Roma For Roma - Miloš Paunković, Roma Party - Srđan Šajn and Roma Union of Serbia - dr. Rajko Đurić. All three Roma parties complained about problems in the registration of candidate lists, the election administration and the campaign. Their main concerns were the slow performance of the court clerks in the process of verifying support signatures, and the non-acceptance of their representatives in the extended composition of the polling boards in municipalities with a significant percentage of Roma population²². In addition, OSCE report signaled internal conflicts and competition in the Roma community²³. These circumstances led to a poor performance of Roma parties in general. Namely, none of the parties succeeded in passing the threshold and securing a seat in the National Assembly.

Table 4. The results of the parliamentary election 2008

PARTIES IN ORDER OF PARLIAMENTARY SEATS	NUMBER OF SEATS	NUMBER OF VOTES	% OF SEATS	% OF TOTAL VOTES CAST
For European Serbia (coalition)	102	1,590,200	40.8	38.42
Serbian Radical Party	78	1,219,436	31.2	29.46
Democratic Party of Serbia-New Serbia	30	480,987	12	11.62
Socialist Party of Serbia	20	313,896	8	7.58
Liberal Democratic Party	13	216,902	5.2	5.64
Hungarian Coalition	4	74,874	1.6	1.81
Bosniac List for European Sanjak	2	38,148	0.8	0.92
Albanian Coalition from Preševo	1	16,801	0.4	0.41
ELECTORATE	TOTAL VOTES CAST		VOTER TURNOUT PERCENTAGE	
6,749,688	4,139,384		62.4	

Nevertheless, despite the failure of Roma parties to obtain seats in a regular way in the current convocation of the National Assembly there is a party aspiring to represent Roma minority.

In May 2009 Jovan Damjanovi left the parliamentary caucus of the Serbian Radical Party and formed a new party – the Democratic Left of Roma²⁴. At the moment, he is the only representative specifically on the behalf of Roma minority, and ECVRD in general, in the National Assembly.

However, despite failure of parties of ECVRD to attain and hold the seats in the National Assembly, there were always Members of Parliament who

22 Republic Of Serbia Parliamentary Elections 11 May 2008; OSCE/ODIHR Election Observation Mission Report:19-20

23 Republic Of Serbia Parliamentary Elections 11 May 2008; OSCE/ODIHR Election Observation Mission Report:19

24 <http://www.skupstinskamreza.rs/portal/index.php/home/najnovije-vesti/4730>

originate from ECVRD. As a rule, they were the members of the major parties which were successful in obtaining a substantial portion of seats in the National Assembly. One of the more interesting examples in that regard is the far-right Serbian Radical Party, which always tended to have a strong support in Roma community and also had a propensity to have MPs originating from ECVRD. Nevertheless, given the lack of data, these MPs cannot be definitely identified and, in general, they never distinguished themselves as strong proponents of right of ECVRD.

4.2 National Minority Councils

The elections of national council members are held every four years. There are two types of elections: direct and indirect elections via electoral assemblies. The Councils of a National Minorities are elected directly when the number of persons belonging to the national minority and registered in the electoral roll exceeds 40% of the number of citizens who declared themselves as persons belonging to that minority at the last census. Three ECVRD qualified to have their representatives elected in this way: Roma, Egyptian and Ashkali. Separate electoral registry was created for every national minority. Registration in the voter registries for the elections of National Councils began in November 2009. The elections were held on Jun 6th 2010.

The results of the election are presented below

Table 5. The general results of the 2010 National Minority Council election

ECVRD	REGISTERD VOTERS	TURNOUT	INVALID BALLOTS	VALID BALLOTS
Ashkali	1148	446	7	439
Egyptian	1549	696	11	684
Roma	56076	30811	547	30255

Table 6. The results of the 2010 Ashkali National Minority Council election

LIST	NUMBER OF VOTES	NUMBER OF SEATS
Ashkali for better Tomorrow (Aškalije za bolje sutra)	51	1
Ashkali for Salvation, Peace and Future (Aškalije za spas, mir i budućnost),	225	8
Together (Zajedno)	163	6

Table 7. The results of the 2010 Egyptian National Minority Council election

LIST	NUMBER OF VOTES	NUMBER OF SEATS
Egyptians but together (Egipćani ali zajedno)	273	6
Future (Budućnost)	411	9

Table 8. The results of the 2010 Roma National Minority Council election

LIST	NUMBER OF VOTES	NUMBER OF SEATS
Roma Party - Srđan Šajn (Romska partija Srđana Šajna)	2126	2
Vojvodina Roma List – Petar Nikolić (Vojvođanska romska lista - Petar Nikolić)	4135	5
Roma Vote FOR Europe (Romski glas ZA Evropu)	1178	1
Aliance of Roma Associations of Pčinja-Jablanica district – New Roma Movement – Nenad Tairović (Savez društava Roma pčinjsko-jablaničkog okruga – Novi Romski Pokret – Nenad Tairović)	4556	6
International Roma Union of Serbia for Better Tomorrow – Melache detarjache – Novica Mitić (Internacionalna Romska Unija za bolje sutra – Melače detarjače – Novica Mitić)	653	0
Roma list for Central Serbia - Nikolić Božidar (Romska lista za Centralnu Srbiju - Nikolić Božidar)	476	0
Group of citizens of Roma of Serbia – Dragiša Todorović Grupa građana Roma Srbije – Dragiša Todorović	2654	3
United Roma – Miša Stojkov, Milan Nikolić (Ujedinjeni Romi - Miša Stojkov, Milan Nikolić)	631	0
Roma of Serbia – Memišević, Milanović (Romi Srbije - Memišević, Milanović)	263	0
Roma for European Serbia Serbia (Romi za Evropsku Srbiju).	13583	18

4.3 Local elections

The last local elections were held on May 11th 2008, at the same time as parliamentary elections. The three ECVRD (Roma) parties, which participated in parliamentary elections, also participated in the local elections²⁵. These parties are as follows: Serbian Roma Union - dr Rajko Đurić (Unija Roma Srbije - dr Rajko Đurić), Roma party - Srđan Šajn (Romska partija - Srđan Šajn), and Roma for a Roma - Miloš Paunković (Romi za Roma – Miloš Paunković). Beside these three lists, which aspired to represent Roma national minority via master lists across several municipalities, there were several lists with background of ECVRD composed only for means of electoral competition at the particular locality. In general, most of the votes received by ECVRD parties came from Pčinja district. Nevertheless, overall results were inferior (see table below).

25 http://www.rik.parlament.gov.rs/latinica/propisi_frames.htm

The exact ethnical composition of the municipal governments cannot be determined. There is no data to facilitate the analysis of the matter in any particular detail. Nevertheless, after inspecting all available Internet presentations of local governments, especially focusing on positions of the municipal president (mayor) and its deputy, it is evident that the number of the members of ECVRD on leading positions of municipal government is negligible²⁶. In general, members of ECVRD do not participate in local government in any significant extent.

Table 9. Performance of parties of ECVRD (Roma) in 2010 local elections

LIST MUNICIPALITY	DEPUTIES	VOTES	DEPUTIES IN MUNICIPALITY	TURNOUT	REGISTER	
					VOTER	
Unija Roma Srbije	1	282	33	9675	16983	Bela Crkva
Unija Roma Srbije – Vladislav Jašarević	0	618	56	31549	51624	Pirot
Unija roma Srbije - Dr Rajko Durić	0	102	37	8408	12214	Babušnica
Nova demokratska stranka						
Roma Srbije-Ferez Dermaku	1	270	35	8788	12941	Beočin
Romska stranka	1	204	35	8788	12941	Beočin
Ujedinjena partija Roma	1	447	41	19794	36314	Bujanovac
Koalicija Romska partija	0	418	41	19794	36314	Bujanovac
Koalicija PDŠ-PDK	1	846	41	19794	36314	Bujanovac
Romi za Roma - Miloš Paunković	0	2	31	5620	8687	Bosilegrad
Unija Roma Srbije - dr Rajko Durić	0	0	31	5620	8687	Bosilegrad
Romska partija - Srdan Šajn	0	1	31	5620	8687	Bosilegrad
Romska partija-Romski pokret						
Obnove	0	229	69	64664	104739	Sabac
Nova demokratska stranka	1	288	31	7514	12556	Koceljeva
Roma Srbije						
Romska partija-Srdan Šajn- Romski pokret obnove	0	340	31	36695	63167	Jagodina

5. ECVRD leaders' perception of the participation of ECVRD in electoral completion

An expert survey was conducted as part of this research. The goal of the survey was to determine the type of obstacles the members of ECVRD face. The survey targeted the distinguished members of ECVRD, activists and members of parliament. The questioner comprised 22 questions (out of which 9 were open-ended) on the electoral system, party system and participation of ECVRD in the public life of Serbia. The questionnaire was sent by email. The response rate was 21.6%. In the following sections the general findings of the survey will be discussed.

There seems to be a consensus among respondents with regard to the overall participation of ECVRD in the work of the National Assembly. The

26 <http://www.drzavnauprava.gov.rs/pages/municipality.php>

respondents consider ECVRD underrepresented in the National Assembly of the Republic of Serbia and believe that one of the reasons of underrepresentation is the current electoral system in Serbia. Nevertheless, it seems that there is also a consensus that the participation of ECVRD is conditioned by some additional factors. The respondents listed several factors. The general opinion is that the level of education, poverty and lack of information within ECVRD are the factors influencing the representation of ECVRD in the National Assembly. Among these, poverty seems to be dominant. Members of ECVRD are often targets of vote buying. Political organizations of ECVRD do not have regular funding, which makes them susceptible to rivalry, partition and ultimately, manipulation by the parties of majority. Finally, some respondents observed that representation is partly caused by the lack of political culture, weak organization and not fully defined national self-identification. With regard to the electoral system, most of respondents believe that guaranteed seats are the only way to establish proper representation of ECVRD. ECVRD are supposed to have a guaranteed number of seats in the National Assembly corresponding to the proportion of each particular community in the general population of the Republic of Serbia. In addition, some respondents suggested that the guaranteed seats rule should complement the current electoral system and be activated only in the case of none of the parties of ECVRD passing the electoral threshold for minorities. On the other hand, the respondents do not have a clear vision of the potential modifications of the electoral system used for the election of municipal government. There is an overall assessment that the ECVRD are not adequately represented on the municipal level, but there is not a concrete suggestion for how it could be enhanced. One suggested solution was to adopt the form of multiethnic governance already present in the Bujanovac municipality. However, respondents noticed that the electoral system in itself might not be the problem as much as the tendency of the majority parties to absorb prominent members of ECVRD and a discriminatory institutional practice of consulting only these members of ECVRD with regard to issues concerning ECVRD as a whole. In addition, some respondents pointed out that underrepresentation of ECVRD in the number of employees in local self-governance is directly related to the underrepresentation of ECVRD in the elected bodies.

Considering the recognition of all relevant ECVRD before the law, there is a consensus among respondents that there is a partial recognition. Nevertheless, the respondents could not name a particular group that is not recognized by the current law. Namely, most of the respondents referred to

particular groups within already recognized ECVRD: legally invisible individuals, internally displaced persons and refugees.

Apparently, in contrast to the groups not recognized by the current laws, there are advantages of ECVRD recognized before the law. However, it must be underlined that respondents tended to attribute these advantages only to the Roma population. The listed benefits are as follows: There are some affirmative measures with regard education and employment.

There are forms of mandatory health care. In the background of the Decade of Roma Inclusion, there are projects aimed at inclusion of Roma community. The Serbian government has adopted a strategy for the inclusion of Roma. Through the institution of the National Councils, ECVRD have the right to decide on cultural issues.

With regard to the National Councils, there is a consensus that the National Councils are not sufficient for the protection of ECVRD. Firstly, the limitation of minority self-government only to the cultural issues does not allow extensions to other areas of interest and importance. However, most of the suggestions for the work of the National Councils refer to the elected members of the Councils. Some respondents are of opinion that the National Councils are very much under the influence of major parties and that individuals controlled by mainstream parties populate the National Councils. In addition, elected members are considered incompetent and inadequately educated by some respondents. In general, most respondents feel that there is not a problem with the legislature, but rather with the implementation of the law in practice. In addition, there is an impression that ECVRD are not aware of their rights, therefore their rights cannot be utilized.

In that vein, putting aside changes in electoral system, most of the respondents state that further improvement of rights of ECVRD is not in improving the legislation, but rather in the implementation of already existing laws. Respondents suggest that the state of ECVRD should be monitored by a set of indicators across the various institution and forms of social life, especially employment, housing, life standard and education. However, most of the respondents underline that there is a need of strict implementation of laws, in particular of the Anti-discrimination Act.

According to the respondents, mainstream parties are partly open for co-operation with parties of the ECVRD. There is a consensus that the Democratic Party (Demokratska Stranka) is most opened to cooperation with parties of ECVRD, followed by the Liberal-democratic Party (Liberalnodemokratska Partija) and the Socialistic Party of Serbia (Socijalistička Partija Srbije). The general assessment is that the mainstream parties are open

to enlisting individuals coming from ECVRD. However, respondents do not feel that membership of mainstream parties originating from ECVRD is proportionally represented in the leadership of the mainstream parties. There is a consensus that the Democratic Party (Demokratska Stranka) is also the party with the highest number of members coming from ECVRD. Other parties mentioned in this regard are the Socialistic Party of Serbia (Socijalistička Partija Srbije) and the Serbian Radical Party (Srpska Radikalna Stranka).

6. Relation of the Mainstream Parties to the ECVRD

The lack of organization and independent funding of political association of ECVRD makes them susceptible to influence of the mainstream parties. The parties in power tend to suppress authentic voices and political request coming from ECVRD. In general, this should not be understood as the overt indication of the direct and intended act of discrimination. It should be rather interpreted as an attempt to control centers of political power, including those of the minorities. In this sense, the lack of political organization within ECVRD allows mainstream parties to overtake the institutions devised for protection of right of ECVRD. In general, mainstream parties are open for cooperation with parties and political organizations of ECVRD. Nevertheless, the lack of organization and permanent conflict immanent to political associations of ECVRD makes them irrelevant in the bargaining process. Considering the population of ECVRD in the Republic of Serbia, it is clear that the leverage of ECVRD is disproportionately small in comparison to the other minorities (e.g. Bosniak and Hungarian).

Overall, mainstream political parties neglect the problems of ECVRD. The analysis of recent manifestos (2008 election) of major political parties in Serbia conducted for the purpose of the research presented here, did not find any reference to any of the ECVRD. The problems which ECVRD face are taken in the context of minorities in general, and no particular attention is paid to the specific needs of ECVRD. In general, mainstream parties do not find the issues of ECVRD electoral profitable.

Regarding the membership of ECVRD, mainstream parties are open for individuals coming from ECVRD. This stretches even to the far-right parties. However, it seems that there is a tendency of members of ECVRD to join the ruling parties. For instance, in the 1990s members of

ECVRD were joining the Socialistic Party of Serbia (Socijalistička Partija Srbije) in large numbers. Currently, this is the case with Democratic Party (Demokratska Stranka).

Nevertheless, although mainstream parties are careful to have some Members of Parliament originating from ECVRD, hence there is a underrepresentation of ECVRD in leadership of mainstream parties.

7. Summary of findings

ECVRD are still subjected to various types of discrimination. At the moment, the issue seems to be less about the legal framework, and more about the entrenched institutional practices, political culture and implementation of the law. There are several aspects of necessary improvements. Firstly, the population of ECVRD is unknown. There is a need to collect up to date data on the population of ECVRD and devise relevant indicators of their social status. Secondly, there is a need to devise additional affirmative measures in order to ensure representation of ECVRD.

However, it seems that electoral system is only a part of problem connected to the representation of ECVRD. Namely, it seems that the political activity of ECVRD is plagued by internal conflicts, lack of strategy and lack of organization. This situation is additionally worsened by the actions of mainstream parties, which operate by exploiting the divisions within ECVRD.

Thirdly, there is a need for a stable, organized and reliable political structure which would voice the needs of ECVRD.

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List of Prominent Members and Organizations

People

People Name	Function	Contact
Srđan Šajn	President – Roma party, former Member of parliament	NA
Dragoljub Acković	Editor of the Roma program on Radio Belgrade	rromavoice@yubc.net
Osman Balić	Coordinator of league for decade of Roma inclusion	yuromcentar@sbb.rs yuromcentar@bankerinter.net
Petar Nikolić	Head of Matica Romska	NA
Miša Stojkov	Member of Municipal Parliament	NA
Dr Rajko Đurić	Serbian Roma Union , former Member of parliament	unijaromasrbije@hotmail.com
Miloš Paunković	Serbian Roma Union, independent candidate	unijaromasrbije@hotmail.com
Jovan Damjanović	Member of parliament	jdparlament@yahoo.com
Romeo Mihajlović	Journalist RTV Novi Sad	romeomihajlovic@yahoo.com
Vitomir Mihajlović	President Roma National Council	http://www.romskinacionalnisavet.org/

Organizations Name	Email	Website
Serbian Roma Union	unijaromasrbije@hotmail.com	http://www.unijaromasrbije.org.rs
Democratic left of Roma	jdparlament@yahoo.com	http://www.dlr.rs/index.html
Praxis	bgoftice@praxis.org.rs	http://www.praxis.org.rs/
Educational Center of Roma	office@ec-roma.org.rs	http://www.ec-roma.org.rs/sr/index.htm
Roma National Council	info@romskinacionalnisavet.org	http://www.romskinacionalnisavet.org/
Roma Resource Center	robert@ehons.org stanka@ehons.org	http://romacenter.ehons.org/sr/vesiti/
Bibija Roma Women Center		http://www.bibija.org/
Association of Roma students	jelica.nikolic@urs.edu.rs radovan.jovanovic@urs.edu.rs miroslav.nikolic@urs.edu.rs	http://urs.edu.rs/
Humanitarian Association of Roma	anita.kurtic@hur.org.rs	http://www.hur.org.rs/
Roma Heart	romskos@yubc.net zrcsrce@yubc.net	http://www.romaheart.org/partneri.html
Democratic Roma		http://www.dur.org.rs/cms
Serbian Roma Union	unijaromasrbije@hotmail.com	http://www.unijaromasrbije.org.rs
Democratic left of Roma	jdparlament@yahoo.com	http://www.dlr.rs/index.html
Praxis	bgoftice@praxis.org.rs	http://www.praxis.org.rs/

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