



GLOBAL JOURNAL OF HUMAN SOCIAL SCIENCE
POLITICAL SCIENCE

Volume 13 Issue 6 Version 1.0 Year 2013

Type: Double Blind Peer Reviewed International Research Journal

Publisher: Global Journals Inc. (USA)

Online ISSN: 2249-460X & Print ISSN: 0975-587X

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Keywords: liberal multiculturalism, minority rights, cultural diversity, Croatia, Macedonia.

GJHSS-F Classification : FOR Code: 360199



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Dr. Vesna Stanković Pejnović

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I. INTRODUCTION

Ethnic conflicts have seriously affected the process of democratization in both countries, Macedonia and Croatia. Macedonia and Croatia have a similar past, because they were both former SFRY (Socialist Federal Republic of Yugoslavia) members and experienced sudden regime breakdowns and both signed a Stabilization and Association Agreements (SAA) with the EU in 2001. However, they followed quite different developments which resulted so far in substantially different outcomes. The countries with ethnic and language problems have had difficulties establishing a democratic and civil society (Slovakia, Ukraine, Romania, and Macedonia); while in other, ethnic conflicts have led to civil wars (Croatia, Serbia, Georgia, Chechnya). In these countries conflicts are the

source of injustice in the ethno-cultural field. If there are no open conflicts, there have often been demands for language rights, political representation, various forms of autonomy, better education programs, on the part of those who are in the minority, because they do not view the existing solutions as just. The treatment of national minorities is no longer considered to be a matter of internal politics, but of legitimate international monitoring, or, in the words of the OSCE, minority rights are a matter of legitimate international concern, i.e. everything is headed for the internationalization of minority rights, with the goal of providing minorities with the rights to live and work inside their cultures. The international frame has been established so that the Western models of solving the problem of minorities could be applied to the newly-democratized countries of the Southeast of Europe.

Macedonia and Croatia have many difficulties to solve the problem of minorities in an adequate way because they focused the attention on the territory and security. The process of nation building has been offered the possibility of equal opportunity, equal access to education and economic resources, as well as legal institutions and civil services.

II. LIBERAL MULTICULTURALISM

Pioneering moves of liberal multiculturalism are made by three leading political philosophers, John Rawls, Joseph Raz and Will Kymlicka, revising liberal theory to make it accommodate for cultural and moral pluralism of the contemporary western society.

Multiculturalism is an umbrella for covering many different ideas, and there is no consensus among political philosophers about the meaning of the term. The common denominator that binds different multiculturalists are unease about the way mainstream liberal thinking treats the issues of diversity and pluralism. Liberal multiculturalism is a complex ideological phenomenon with an attempt by liberals to distance themselves from universalism and, as far as possible, embrace pluralism and embracing the idea of modern neutrality, the notion that liberalism does not prescribe any particular set of values but allows individuals and groups to make their own moral decisions.

Most countries today are multicultural societies, but not all of them are multiculturalist. 'Multicultural' refers to the empirical fact of diversity, 'multiculturalism'

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to a normative response to that fact. Multiculturalism is a policy based on a philosophy of saying 'yes' to the fact of diversity. (Raz, 1994: 173). Liberal multiculturalism is the key term for Kymlicka and for him it's "rests on the assumption that the policies of recognizing and accommodating ethnic diversity can expand human freedom, strengthen human rights, diminish ethnic and racial hierarchies, and deepen democracy." (Kymlicka, 2007: 18)

But the idealization or absolutisation of the liberal way of life for multicultural society is problematic and untenable because the base is assumed that "culture helps individuals to develop their capacity for autonomy, which then transcends it." (Parekh, 2000: 110) But we must be aware of the fact that such transcending being do not exist in the world because every human being live as culturally embedded self. Any absolutisation of liberalism as a multicultural political theory for the contemporary western society would fail to do justice of living political culture. Taylor complains that the egalitarian liberal position is 'inhospitable to difference', and Young writes that the liberal principles of equal treatment are bound up with 'the ideal of assimilation'. The charge is that the (implicit) aim of liberalism is to exclude or homogenize difference (Taylor, 1992: 43; Tully, 1995: 58–62; Young, 1990: 158). The multiculturalists have been seriously criticized by their (liberal) opponents being anti-universalistic and anti-liberal, and of denying the ideals of the Enlightenment. Multiculturalists are accused to unjustly support the politicization of cultural group identities, there by paradoxically, obstructing the integration of minorities (Barry, 2001: 5). Many critics of liberalism seem to forget that liberalism is in fact a theory of pluralism. And in as far as multiculturalism is a species of pluralism; liberalism is "fundamentally a theory of multiculturalism" too. (Kukathas, 1998: 690) Liberalism is indeed the response of the modern world to the fact of moral, religious, and cultural diversity.

The aim of liberal multiculturalism is to protect minority cultures against assimilationist and homogenizing intrusions of the majority. When members of minorities face disadvantages with respect to the good of cultural membership, those disadvantages may require the rectification by special group-based measures. Kymlicka is using the term 'collective rights', because the individual is the only recognized bearer of moral and political rights in liberal thinking. (Kymlicka, 1989: 138–40; 1995: 45–48; 2001: 71–82) Differential treatment of cultural groups can, under well-defined circumstances, be a way to achieve a desirable level of equality (Miller, 2002; Kymlicka, 1995: 114). In this context, multicultural measures should always be temporary – as long as the unfair inequality persists. Once the inequality ends, or is no longer unfair, there is no longer any valid reason to give the group special treatment.

The concept of multiculturalism, promoted by the international organizations is morally progressive and it has been built on top of the existing human rights. For Kymlicka, application of liberal multiculturalism is the only way for societies (mostly Eastern and post-colonial) to protect human rights, because those societies are facing with many problems with ethnically motivated violence. Because of this the international community finds out that liberal multiculturalism as a reasonable tool of preventing this kind of violence.

So far the international organizations were mostly trying to promote tolerance and prevent violence, which is only a precondition for the slow rooting of liberal multiculturalism. Limited by the practically achievable goals, sometimes by doing so, the international organizations had contradicted certain values of liberal multiculturalism.

The role of the international and intergovernmental organizations, which are formed either at the global (UN and related organizations) or at the regional level (such as OSCE or the EU) is to promote certain standards of behavior by using a variety of "carrots and sticks" at their disposal. "This change in the international discourse of what a normal state looks like is not merely rhetorical. It has implications for the legitimacy of minorities as political actors" (Kymlicka, 2007: 43). But the process of national majority domination, which is vivid today in the Post-Communist and Post-Colonial countries, is a late copy of the same processes which had occurred in the West some decades and centuries before because every Western democracy has pursued ideal of national homogeneity at and has ought to define itself as a mono-national state." (Ibid, 64) It is naïve of the West to think that the post-colonial and post-communist countries would "peacefully move towards significant minority rights through their own domestic democratic processes" (Ibid, 296). Two kinds of policies should be applied – the short term and long term policies. Short-term policy must be based on allaying a certain minimum of standards, where the poor states would have to explain what they are doing for the fulfillment of these; the long-term policy would be a global diffusion of multiculturalism. It is necessary to established regional organizations which would better develop the appropriate categories of minorities, instead of just copy western model.

III. MINORITIES IN MACEDONIA

a) *Political Minority Rights*

The history of the Macedonian nation proves the theories of the modern nation theorists, that nations are not the cause, but the result of the creation of modern nation states and their specific political aspirations towards national integration and cultural homogenization. (Hobsbawm, 1990) The constitutions of the

Republic of Macedonia, before and after 1991, expressed the multicultural particularity of the country, but the state politics as directed towards the development of the Macedonian national identity. (Troebst, 1992, pp. 423-442, Willemsen, H. and Troebst, 2001, pp. 299-315) The Albanian minority remained in the rural parts of the country and therefore they predominantly went away to work in the countries of Western Europe. Apart from that, the Albanian politicians and intellectuals did not gravitate towards Skopje, but towards Pristine, where the majority of Albanians studied. The strong emotional tie to Kosovo was explained thus: "The Albanians in Macedonia may feel ethnically tied to Albania, but there is a great emotional tie to Kosovo. To us, Kosovo is the cultural and intellectual foundation. Writers, journalists, pedagogues, they all come from Kosovo; everything that is valuable is there."¹ Politically active Albanians did not strive towards the incorporation of the Albanian parts of Macedonia into the autonomous region of Kosovo; they strived towards the realization of their rights within the Republic of Macedonia. (Palmer, King, 1971:181; Poulton, 1995: 126) The revolt of the Albanian nationalism in Macedonia in 1968 and 1981 saw Kosovo as a free area of its action. (Poulton, 1995: 127-129) In the 80's of the 20th century, the Macedonian government utilized repressive measures against the Albanian population, and encouraged the Albanian claims of discrimination by the Macedonian state². (Poulton, 1995: 127) The representatives of the Albanian minority did not accept the position of a minority, since they considered to make up between 30 and 40% of the population, although there were only 22, 9% of them, according to the census in 1994³. According to the census in 2004, the Albanian minority occupies 25, 17% of the total population in Macedonia, which marks a few per cent increase in relation to the census in 1994⁴. The number of the members of the Albanian minority has been constantly increasing since 1961⁵.

The primary goals of the political programs of the Albanian parties have been to obtain and expand

¹ The Albanian Questions in Macedonia: Implications of the Kosovo Conflict for Inter-Ethnic Relations in Macedonia, the Report of the International Crisis Headquarters, 08/11/1998, 2.

³ The 1994 Census. The Census of the Present and the Future: First results (Skopje, Republic Bureau of Statistics, 1994).

⁴ According to the census in 2004, there were 509.082, or 25,17% of Albanians in the total number of 2 040 929 people, and according to the census in 1994, in the total number of 1 288 330 people, there were 442 914 Albanians, or 22,7%, from Book I – Total Population, house lands and dwellings, Republic of Macedonia State, Statistic Office, Skopje, February, 2004, 137

⁵ According to the state census in 1961, the Albanian minority constituted 13% of the population, in 1791 it was 17%, in 1981 it was 19, 8%, and then 21, 7% in 1991, 22, 7 in 1994, and 25,17 in 2004., Shadow Report on the Situation of National Minorities in the Republic of Macedonia, Prepared by the Working Group for Minority Issues, March, 2004, 7.

collective rights. Their actions are directed towards acquiring a different constitutional status of their minority (redefining Macedonia as a two-nation state), expanding linguistic rights (the recognition of the Albanian language as the second official language), education in the mother tongue at all levels, proportional representation of Albanians in all political and public spheres (especially in the police and military), and the development of a greater autonomy in the local self-government. In order to prevent a war, the international community decided to break the connection between the Albanians in Kosovo and those in Macedonia, pressuring the Macedonian Government to guarantee minority rights for the Albanians in Macedonia, and prevent internal destabilization of inter-ethnic conflicts within Macedonia. The international community produced the opposite effect; it triggered the assertion of the territorial demands of the Albanian radicals. Just as in other republics, pushing particular ethnic groups into the foreground, rather than separating stable democratic political institutions or helping economic reforms and development, was counterproductive in Macedonia⁶.

In essence, the advancement in the Albanian – Macedonian relations are a step forward towards the European integrations for both the countries which have undoubted economic and political interests in close cooperation, and common interest in regional stability. Since Macedonia has gained independence to this day, the Albanian political parties have been regularly included in the Government, regardless of the election outcome. This is a sign that Macedonia has practiced consociational democracy, i.e. a cooperation of the political elites of the Macedonian and Albanian political bloc for a long time.

b) *Specific Minority Rights*

Before the Ohrid Agreement was signed, there had been nationalities in Macedonia as synonyms for national minorities. National minorities did not have a constitutional status, but they did have certain collective rights (the right to use mother tongue and preserve minority cultural traditions).

In the area of education, apart from the equal approach to the educational institutions for all citizens, minority members have the right to education in their mother tongue in primary and secondary schools. Children are taught in Albanian and Turkish in secondary schools. There has been a rise in the number of students of Albanian nationality in this field as well. The number and the percentage of the students studying in Turkish, after the oscillations of the past years, have increased two times⁷. On the level of higher

⁶ Ibid. 393-394.

⁷ There were 4% of Albanian children in 1991, 5,9% in 1992, 7,4% in 1993, and 9,8% in 1994, Ibid. p. 217

education, there has been a considerable growth in the number of national minority members as well⁸.

To Albanians, university education in mother tongue represents the key way to accomplish social and economic parity with the Macedonian majority. As the members of the Albanian minority forced the foundation of the university, and the Government proclaimed it unconstitutional, the question of the university was posed as political, not an educational one. In 1999, the High Commissioner on National Minorities, Max Van der Stoep, (1999) suggested that the Albanian minority should be more present in the public government. He suggested, via the agreement of cooperation, the establishment of a separate state college in Albanian to train professors to the University of Skopje, which would complement the work of the Faculty of Pedagogy. He also recommended that a three-language (English-Macedonian-Albanian) higher education center should be founded as a private institution for the affairs of public and business management, the University of Stul, the University of South Eastern Europe in Tetovo, which would be funded from the international financial aid. Quotas for easier access by minorities to higher education in Macedonian language at state universities have been introduced.

Since it gained independence, Macedonia has made significant effort to improve the position of the national minorities in all fields of state government.⁹ It is traditional, not formalized agreement that the governments in Macedonia are ethnic coalitions. The party system is multi-party and multi-dimensional, because ethnic communities of Albanians, Turks, Roma, Serbs and Bosnians have their political representatives in the Parliament. The electoral system has changed from a majority and mixed (majority-proportional) to pure proportional representation in order to prevent sub-representation of smaller ethnic parties. Albanian ethnic community is providing greater influence on a local level, because of the dispersion of authority. Under the influence of the Ohrid Agreement, the number of employed Albanians has been constantly increasing. This trend will have to continue, since there is still a great discord between the number of the employed and the number of the members of the Albanian community. This is a hard and painful process for DUI and the Government of Macedonia, as well as for VMRO and DPA. (Xaferi, 2001)

⁸There were 3, 4% of students of Albanian nationality in 1992, and 7,7% in 1997. there were 0,8% of Turkish students in 1992, and 1,2% in 1997, Ibid., 218.

⁹There are 8,7% of national minority members in the total number of the employed in the Ministry of Internal Affairs, which is almost twice as many as in the period 1993-1996. In the Ministry of Defence are employed 8, 16% members of national minorities. They are also present in judiciary: in the Constitutional Court, 3 to 9, and in the Council of the Republic 2 to 9 members. 4 to 25 judges in the Supreme Court of the Republic of Macedonia are Albanian, and one member belongs to the Vlachos national minority

Albanians use their language, both in plenary sessions and in the sessions of the operating bodies of the Parliament. The Turkish community, occupying 3, 85% of the total population, has had certain negative oscillations¹⁰. This community has 3 representatives in the Parliament. The members of the Turkish minority have the right to use their language official in 4 municipalities. According to the Law of the Territorial Organization of Local Self-Government in 2004, the Albanian became the official language in all municipalities where Albanians comprise more than 20% of the total population of the municipality. The Albanian language is official in 30% of the total number of 84 municipalities.

c) *The Implementation of the Ohrid Agreement*

International engagement has, since the 2001 conflict, brought progress in integrating Albanians into political life. This has been underpinned by the promise of the European Union and NATO integration, goals that unite ethnic Macedonian and Albanians. Macedonians' sense of identity has been challenged by the necessary concessions they have made to their compatriots pursuant to the Ohrid Framework Agreement that ended the 2001 conflict. These seek to turn the country into a "civic state", by bolstering the rights of the Albanian and other ethnic minorities, but they also dilute its essence as the homeland of the Macedonian people. But peace agreement that puts an end to the war conflict admits the division of the society along the ethnic lines.

The Framework Agreement contains three parts: the far-reaching amendments of the Macedonian Constitution, the change of the existing legislation and the plan of hostility ending. The main changes made in the implementation of the Agreement are directed towards the change in the Constitution according to which Macedonia becomes a state of its citizens. The main purpose of the Ohrid Agreement is the existence of the Macedonian state through respect of ethnic identity of each Macedonian citizen and the development of a civil society as its perspective. In this context, minority rights obtain greater attention, especially those of the Albanian minority, bearing in mind that other minorities must not be marginalized. Ethnic identity becomes more important by the strengthening of the identity of ethnic communities in Macedonia, through a broader participation of their members in the state government and the public life of the country, proportionally to the number of members of the total number of the population, and through the expansion of the cultural rights of national minority members. We are dealing with the transformation of Macedonia from a national into a

¹⁰According to the census in 1953, there were 9, 4% of them, 6,6% in 1961, 4,5% in 1971, 4,5% in 1981, 3,8% in 1994, and 3,85% in 2002. A great number of the Turkish minority members went to Turkey in the 50's of the 20th century, on the basis of the Republic of Turkey and Federal People's Republic of Yugoslavia.

multinational state. (Škarić, 2003: 157-176.) Agreement was a compromise: Macedonia will stay unitary state, but ethnic Albanians are increasing their influence, especially on the local level and have obtained the large right of veto in the Parliament. A new territorial division has been adopted, by which the Albanians obtain greater autonomy on a local level, in the municipalities. The Law of decentralization reinforced their role further and percentage of minorities has been increased in the army, police, public administration, which strengthens loyalty of these communities in regard to the state.

Despite considerable progress, Ohrid Agreement has not been fully implemented. Inter-ethnic tensions and a risk of instability remain. Ohrid Agreement does not answer the ethnic questions on a territorial basis, and it does not allow the establishment of territorial autonomy. The basic principle in the Ohrid Agreement is that the sovereignty and territorial integrity of Macedonia, as well as the Unitarian character of the state are inviolable and must be preserved. There are no territorial solutions to ethnic questions.

The Ohrid Agreement has largely changed the constitutional framework of the previous political system. So –called Westminster democratic political framework established 1991 has been abandoned and a new model has been set-up, known in political theory as power-sharing. The Ohrid Agreement finds the solution to the ethnic problems in the integration of national minorities into the Macedonian society, preserving multiculturalism and not questioning the Unitarian character of Macedonia. The Unitarian character involves a higher level of decentralization of the authority and expanded local self-government in relation to the Constitution of 1991. The whole process of Ohrid Agreement implementation is monitored, supported and occasionally intervened into by the international community, which is of crucial significance to the reforms since, without international mediation, the political parties would hardly be able to reach a compromise on these important questions. (Brunnbauer, 2002) There have been a few problems related to the practical implementation of the Ohrid Agreement. The first was related to the widely accepted understanding of the ethnic Macedonians that the Agreement was signed under the pressure of the 'pro-Albanian' western powers, and as a result of terrorist activity, (Damovski, 2001) which had a negative effect on the ratification of the Agreement in Parliament. As the implementation of the Agreement demanded a series of constitutional and legal measures, the success or failure was greatly in the hands of Parliament. The second important issue was directed towards the type of state that would be created by the Agreement. There was a striving towards the creation of a symmetrical state authority between Macedonians and Albanians, with little attention dedicated to other national minorities living in Macedonia. The implementation of the

Agreement was headed towards the creation of de facto bi-national state where Macedonians and Albanians would constitute two ethno-political elites, while other minorities would hardly participate in the political life at all. (Engström, 2002) The Ohrid Agreement has not managed to develop the multicultural democratic system, since it has strived towards the promotion of only one national minority. Paradoxically, the Agreement has been directed towards the development of a civil state through ethnically defined measures.

d) *The Republic of Macedonia After the Ohrid Agreement*

The resulting Ohrid Framework Agreement was a notable success. A wider conflagration was avoided, and it laid the foundations for a long term settlement of the grievances of the ethnic Albanian community, and for its full integration into political life. Much progress has since been made in implementing the agreement. The European Commission recently cited more equitable representation of Albanians in the civil service and the passing of a law on languages as key accomplishments. ¹¹Ohrid Agreement was incomplete in an important respect, addressing only the grievances of the ethnic Albanian community, without corresponding measure to reassure the ethnic Macedonian majority and shore up its fragile and threatened identity. ¹² It redressed the long-standing, legitimate grievance of the Albanian minority in ways that the Macedonian majority perceived as being at its expense. Turning Macedonia into a "civic state" diluted its essence as the homeland of the Macedonian people. Resentment among ethnic Macedonian at what was widely perceived to be unjust agreement has not disappeared. The great majority of Macedonians considered Agreement an unjust act, the product of violence on the side of ethnic Albanians supported by "international community" against Macedonian national state and against the interest of the Macedonian nation.

The report on Macedonia written by the Committee on Foreign Affairs of the European Parliament (EP) in 2007¹³ has established that the Ohrid Agreement secures for the population belonging to two different language group community life in unity and peace via municipal organization and the means of qualified multiplicity (Badenter majority) which protects the position of ethnic minority in the process of decision making of the Parliament.

¹¹"The former Yugoslav Republic of Macedonia Republic of Macedonia, 2012 Progress Report"; Brussels, 5 November 2012, http://ec.europa.eu/enlargement/pdf/press_corner/key_documents/reports_nov_2008/the_former_yugoslav_republic_of_macedonia_progress_report_en.pdf

¹²Crisis Group Report, Macedonia's Name, op.cit., 2009

¹³Draft Report on the 2009 Progress Report on the Former Yugoslav Republic of Macedonia (2006/2289 INI), European Parliament, Committee on Foreign Affairs, <http://www.europarl.europa.eu/committees>

It is recommended that we should learn from the experience of Belgium, Spain, Italy, and Switzerland that managed to build the system of government and education taking care of regional language differences. The representatives of the EU hope that a future agreement will be made in which the two largest nationalities and different minorities (including the Turks, Roma, Serbs, Bosnians and Vlachs) will live with each other in equality and harmony and that the government (authority) will be equal to the number of different populations. In the latest progress report in 2012 Committee on Foreign Affairs of the European Parliament (EP)¹⁴ welcomes the fact that, eleven years after the Ohrid Agreement, the country's Parliament adopted the law on the use of languages in administration and education; welcomes in particular the extended possibilities for higher education afforded by the opening of new faculties in various towns, including those with curricula in different languages; notes the improvement of the equitable representation of members of non-majority communities, notably in the public administration, the police and the military forces.

Nevertheless, the Ohrid Agreement is not fully implemented, and the integration of Albanians into Macedonian political life remains imperfect. Strains between the two ethnic groups remain. A crucial factor underpinning Ohrid Agreement was the promise of NATO and EU integration, the key national goal behind which Macedonians and Albanians are united. The DUI vice-president, Teuta Arifi said: "NATO and EU integration keep the country together"; they are "the light at the end of the tunnel"¹⁵ without which Macedonia would not easily progress as a democracy. If NATO and EU integration were to be delayed indefinitely over an issue which is of no concern for ethnic Albanians, it is questionable how long their patience would last¹⁶.

Today, feeling of insult, humiliation and lost dignity is gradually changed. Now Macedonians say that "consociational democracy is our future." (Maleska, 2005) Political elites must want to develop such democratic model of state and the effort will be successful if all sides are truly committed to. Comparative research in similar conflict reveals that "the main obstacle toward the implementation of peace agreements following internal, violent conflict lies more in refusal by, than in the sincerity of the government to implement what has been agreed, and often in the incapability of the state institutions to do in the proper way." (Trifunovska, Varennes, 2001) There are several reasons for this: mutual mistrust, pressure from radicalized public opinion considers cooperation with

former "terrorist" as "treason of national cause" and fear that future elections will be lost due to the accepted compromise. It is easy to predict that this kind of situation will produce strengthening of minority nationalism and in Macedonian side need to strengthen their own identity. It is important to overcome this because Ohrid Agreement installed a mechanism that can lead to a multi-ethnic balance and accommodation in the process of decision-making. Regarding several uncompleted commitments from the Ohrid Framework agreement, the International Crisis Group finds that frustration and more radical political attitudes among Albanians are on the rise (International Crisis Group, 2011: 20).

IV. MINORITIES IN CROATIA

During the war and unstable peace, there was no political will to resolve the emerged problems of national minority rights for a long time. The international community swiftly identified the violation of minority rights and constantly pressured and offered various forms of aid with the goal of improving the state. As the realization of particular minority rights is an important criterion in the democratization of a society, and as the successful solution to this problem is one of the conditions of economic and political integration into European institutions, Croatia began to work on the definition of a new model of minority right realization, which was supposed to include the 'new' minorities. The problems emerged in the attempt to define the status of Serbs and their rights, which turned into an open conflict. In the beginning of the democratic transition, changing the government in 2000, important steps was made in the protection of human and minority rights.

If we compare the records of the census in 2011¹⁷ with the census in 1991, all minorities except for Albanians, the Roma and Germans have decreased in number. During this period the minority population has decreased from 22% to 8%. The records of the number of Croats between the two censuses lead to the conclusion that numerous national minority members have changed their national belonging. This conclusion can be somewhat accounted for on the basis of the increase in the number of Croats between the two censuses¹⁸ which cannot be merely explained by population growth, since the population decreased in this period¹⁹. This increase in the ethnically declared

¹⁴ European Parliament resolution of 12 March 2009 on the 2008 progress report on the former Yugoslav Republic of Macedonia The European Parliament , <http://www.europarl.europa.eu/sides/ge>

¹⁵ Crisis Group interview, October 2008

¹⁶ Crisis Group interview, October 2008

¹⁷ The most drastic decrease is recorded in the largest minorities, Serbs, Hungarians, the Czech and Italians. The number of national minority members has decreased in relation to the records in 1991 by 72% of Serbs, 43% of Slovenians, 30% of Rusyns, 28% of Hungarians, 23% of Ukrainians, 18% of Slovaks, 7% of Italians, while the number of Roma has increased by 41%, Albanians by 25% and Germans by 10%.

¹⁸ According to the census of 1991.

¹⁹ According to the rough demographic estimates, around 45 000 people died more than were born in this period.

Croatians can partly be explained by the Croatians who moved from Bosnia and Herzegovina and the diaspora in the 90's of the 20th century; a certain number of citizens from mixed marriages declared themselves as Croatians in the census of 1991, 106 141 citizens declared themselves as Yugoslavians in the census of 1991, while this possibility did not exist in the subsequent census, a certain number of different minority members declared themselves as Croatians in the census.

The reasons for the decrease in the number of national minority members can be found in the results of the war, the migrations towards the urban centres which resulted in the weakening of rural communication, the violation of traditional ties to the minority cultural heritage, inter-regional and over-sea migrations, especially during and after the war of 1991-1995, a higher level of education which lead to social movement of national minority members; the increased number of nationally mixed marriages; the weakening of the cohesive elements of ethnicity, which was replaced by the identification with the professional or social group, or regional belonging. One of the main reasons for this act is the estimation that it will be harder to live in the Croatian society in the future as a national minority member than as a member of the majority nation. (Malenica, 2003, 46)

This significant change in the demographic structure has resulted in other changes relevant to the problem of minorities. In Croatia today, minorities are dispersed – there are no territorially homogeneous national minorities. No minority can ask to participate in the government (power-sharing) as a form of the solution to their status. Minorities that have a certain level of territorial autonomy insist on the realisation of their rights, preferring the protection of identity, rather than the participation in the government²⁰.

Republic of Croatia inherited from the legislation of SFRY the regime of human rights protection which was only relevant to certain minorities. Croatia acknowledged these inherited rights, but the problem of newly formed minorities remained. One of the preconditions of the international recognition was to pass legal acts concerned with national minority protection, especially the protection of the Serbian minority which had had the status of a constitutional nation in the preceding legislation. In order to realise the rights of national minorities, it was very important to adopt the General Convention on National Minority Protection in 1998. This was the first multilateral instrument of legal character which was related to the protection of national minorities. As a complement to the General Convention, Croatia accepted the European Charter of Regional and Minority Languages, on the

basis of which the Law of the Use of Language and Writing of National Minorities was passed. On the basis of the European Charter, the contracting parties are obligated to enable the realisation of rights in mother tongue as regards education, the judiciary, administration and public services, public media, cultural activities, economic and social life in the areas where mother tongues (Italian, Hungarian, Serbian, Czech, Slovakian, Rusyns, and Ukrainian) are used as official.

In 1991 the Parliament passed the Constitutional Law of Human Rights and the Rights of Ethnic and National Minorities. Accepting international standards, Croatia built a high level of minority protection into its legislation. The Constitutional Law of National Minority Rights in Croatia has the key role in the realisation of the general outline of specific minority rights protection, including the question of the participation of minorities in the processes of deciding at the local, regional and state level. The right of national minority members to use their mother tongue, as well as to be educated in mother tongue, was elaborated on in two specific laws. In 2002, the new Constitutional Law of National Minority Rights was passed²¹, as the fulfilment of the Republic of Croatia's obligation in the Agreement of Stabilisation and Joining the EU. Its passing finished the process of the formation of a complete normative outline of the realisation of national minority rights. According to it, the state secures the realisation of the specific rights and freedoms for the members of national minorities, through the realisation of individual and group rights. Its key elements include the protection from direct and indirect discrimination, and the promotion of the following minority rights: the employment of minority language in the public and official use; the upbringing and education in the language and writing used by the minority; the use of their own signs and symbols; cultural autonomy – preserving, developing and expressing their own culture, and preserving and protecting their cultural goods and tradition; the right to declare their own faith; the access to the means of public informing; self-organization and association for the purpose of satisfying common interests; the participation in representative bodies at the state and local levels, and in the administrative and judiciary bodies; the protection from any action that threatens or might threaten the realisation of the rights and freedoms of national minorities.

²⁰Minority rights group international report, Minorities in Croatia, 2003, 12, www.minorityrights.org/adm./Croatia.

²¹The Constitutional Law of Human Rights and Freedoms and of the Rights of Ethnic and National Communities or Minorities in the Republic of Croatia, *Narodne Novine*, no 65/1991, 27/1992 – edited text, 51/2000 – edited text.

a) *Specific Minority Rights*

The Constitutional Law and bilateral agreements²² with neighbouring states support the connection between minority groups and their native lands in order to secure the development of common national, cultural and language heritage.

Parliamentary representation. Croatia is one of the rare countries, such as Slovenia and Romania, which secures for members of national minorities not only protection of their national and cultural identity, but also separate places in Parliament; therefore, they have the right to political representation and coordination of their specific interests. The Serbian minority has three places, Italians have one, the Czech and Slovaks have one, Albanians, Bosnians, Macedonians, Montenegrins and Slovenians one, and Austrians and other small minorities one.

Parliamentary committees. Within the Parliament, there is the Committee for Human Rights, with the Subcommittee for Ethnic Minority Rights, which is determined by the implementation of minority politics into the procedure of passing new laws.

Participation in the units of local government and self-government. It is most significant for minorities to be represented at all levels. The new Constitutional Law involves proportional representation at all levels of local government, it also regulates the establishment of the National Minority Council at the local, regional, and state level, as well as consultative bodies to give opinion on relevant subjects related to national minorities and work towards the improvement of the relation between minorities and governmental bodies at all levels.

The National Minority Council was founded in 1998 as a non-governmental, coordination and consultative body of all recorded minorities in Croatia, with the purpose of promoting all minority communities.

The Croatian legislation allows national minority members to be educated in their mother tongue with the curriculum related to the minority culture, history and language²³. Certain national minorities (Italians) choose only those curricula which are completely in the minority language, while others choose curricula in which they study the minority language, history and culture (Russians and Ukrainians). The Czech minority has complete teaching organized in the mother tongue, or bilingual teaching, or teaching the mother tongue, history and culture in certain schools.

V. THE OPINION OF THE EUROPEAN COMMISSION FOR THE REALISATION OF MINORITY RIGHTS IN THE REPUBLIC OF CROATIA

The passing of the Constitutional Law of National Minority Rights was a political obligation that Croatia had according to the Agreement on Stabilization and Joining, and only by its passing was the way towards the submission of candidacy for full membership in the EU open. In the opinion on the application of Croatia for the membership in the EU – avis, which was made by the European Commission on the basis of the answers of the Croatian Government, it was important to pass a Constitutional Law as a legal outline for minority rights in Croatia²⁴. The members of the European Commission consider it particularly important that minorities be represented in the Croatian Parliament, as well as their right to be represented in the representative bodies of the local self-government, the executive and the bodies of the judiciary.

It has been found that national minority members are insufficiently present in the state administration and judiciary. A warning has been issued that the Government has not created a specific mechanism to secure a long-term solution to this problem.

The European Commission has a critical attitude towards the media picture of Croatia, in relation to the realization of the Constitutional Law of National Minority Rights.

The Serbian national minority, as the largest minority, has a specific position. The European Commission mentions the significant decrease in the number of members of this minority²⁵. The avis does not discuss the violated relations between the state and the Serbian national minority during the war, the change of status (the loss of the position of constitutional people and becoming a national minority), the problem of refugees, the restoration of property, and the question of the former right to occupy an apartment. Although it is established that the institutions of the Serbian minority – from political parties, to schools, to cultural societies – are free to act, the general opinion of the European Commission is that there is a lack of the integration of the Serbian minority into the Croatian society at all levels.

The level of minority protection that Croatia has reached up to now is a good start for the coordination between the Croatian and the European legislation, but also for domestic legislation initiatives for the

²² Croatia has signed 5 bilateral agreements, with Hungary, Italy, Serbia, Montenegro, and Austria.

²³ The Law of the Right to be Educated of Ethnic and National Minorities, Narodnenovine, no 51, 2000, Article 6.

²⁴ The Opinion of the European Commission on the Application of Croatia for the Membership in the EU, the Commission of European Communities, Brussels, 2004, 24-29

²⁵ According to the census in 1991, the percentage was 12, 1%, whereas in 2001 census the percentage had decreased to 4, 5%.

improvement of national minority position in Croatia. The position of national minorities has been improved due to the political, administrative and social changes in Croatia, but also because of the taking of a growing responsibility by national minorities for their own position, which are the activities directed towards the strengthening of social organisation and self-organization of the members of national minorities within non-governmental organizations and their growing participation in the work of the bodies of authority at the state, local and regional level. The right to cultural autonomy, due to organisation, is most fully realised by the members of the national minorities which had these rights in the SFRY.

In the latest progress report the²⁶ European Parliament is pleased with the Croatian Government's adoption of an action plan for the implementation of the constitutional law on national minorities and with the increase in funding; urges the Croatian authorities to implement the plan in close consultation with non-governmental organizations representing the minority communities; emphasizes the need to concentrate on the economic and social rights of minorities, in particular their access to employment, and to devise a long-term strategy for employment of members of minorities in public administration and the judiciary, and recommendation for the Councils on National Minorities to enjoy budgetary autonomy from the local authorities they are expected to advise, so that they can exercise their mandate in full independence. EP welcomes the achievements made in the area of the policy on minorities in Croatia, in particular the fact that both educational opportunities and parliamentary representation have been secured for the minorities in the country. They are satisfied with the continuing progress as regards the education of minorities; is concerned, however, that current structures maintain segregation rather than aiming at integration of different ethnic groups (e.g. by means of shared classes); is also concerned, particularly in the case of Roma, that these arrangements might lead to a quality of education inferior to that in mainstream classes. But Commission's opinion is that Croatia needs to continue to foster a spirit of tolerance towards the Serb minority in particular and to take appropriate measures to protect those still potentially exposed to threats or acts of discrimination, hostility or violence. Minorities continue to face difficulties in the area of employment, in terms of under-representation in the State administration, the judiciary and the police and in the wider public sector. There has been no improvement in the level of employment of minorities in bodies covered by the Constitutional Law on the rights of national minorities. Monitoring of implementation of recruitment plans for national

minorities has been weak. Challenges also remain in the areas of education, social protection, health care, employment and access to personal documents.

But Commission has no relevant competency towards the actual member states because of a lack of clear benchmarks in the area of minority rights (Sasse, 2005) Effects of legal-political instruments employed by the Commission depend on the respective policy areas. As Croatia on 1 July 2013 becomes 28th member of EU, its accession is seen by non-governmental organizations as an opportunity for the government to show its commitment to safeguard human rights and to "properly address outstanding abuses in the country." The Roma minority face difficulties in accessing the most basic state services. Serb minority in Croatia continues to face obstacles in relation to the right to housing. In particular, Serbs who were stripped of tenancy rights during the war face on-going difficulties benefitting from the 2010 government program that permits the purchase of property at below market rates because of the cost of making an application and cumbersome administrative procedures. (Human Rights Watch, Croatia, 2013)

VI. CONCLUSION

The most important things that need to be reconciled in both Croatia and Macedonia are the desires of national minorities for cultural autonomy and the territorial integrity of the national state. The arguments for introducing territorial autonomy are limited under the conditions that the minority group is large enough and territorially concentrated, and where the differences between the minority and the majority are significant. The value of the liberal multicultural theory of minority rights is not in providing possibilities to participate in the political domain, but in respecting their demand for the recognition of equality, cultural differences with the right to participate in the process of decision making and the right of self-government.

The countries of South Eastern Europe, and among them Croatia and Macedonia, have shown openness towards the liberal-pluralistic principles. However, although forms of liberal pluralism are not new in this region, the region strives towards ethno-cultural neutrality, which is not in accord with cultural pluralism. There is still a long way to go, since the democratic processes do not automatically secure just reconciliation of ethnic and cultural diversities. The new 'pro-European' structures simply create new sets of possibilities and limitation in the process of establishing models of ethnic balance in a new political environment. Although these countries accept the western pluralistic principles as a prerequisite for joining the EU, these principles do not automatically secure just reconciliation of ethnic and cultural diversity. The justice demanded by minority communities is a step away from the model of

²⁶ European Parliament resolution of 12 March 2010 on the Croatia 2010 progress report, <http://www.europarl.europa.eu/sides>

national state towards the model of multinational states, i.e. from the model of exclusive authority to the model of local autonomy.

The political practice has shown that the South East of Europe cannot decently copy the western-European liberal type of democracy, but can achieve a specific liberal type of democracy conditioned by the historical-political and cultural heritage, the present structural and cultural state of society and different international influence of that state. The help and support of reforms coming from the EU are followed by the demands that will protect the minorities from being subjected which are what would otherwise take place as a result of nation-building. In order to secure real equality for all citizens, minorities need to be given the rights that secure their protection from the outside. This way, minorities have equal possibilities as majorities, work and life within their own culture. All minorities face certain structural vulnerability within the system of nation-building, whether they are in the western countries of the EU, or the candidate countries for membership in the EU.

The EU is not an ideal community of states. It faces many disputes in many regions, slowness in decision making and their realization, bureaucracy, inequality between the rich and the poor countries. Adopting the European values and legal standards brings into question the ethnic and cultural interests of the small countries of the Union. For political elite, there is no alternative, since, at the beginning of negotiations, the EU requires the fulfilment of the political democratic standards, economic prosperity, political stability, security, choice of modernization and international peaceful cooperation, primarily with the neighbouring countries. The fulfilment of the much more difficult economic standard comes after the admission into the EU.

Minority rights are political rights, and their effective exclusion from the basic rights is not immanent only in the countries of Eastern and South Eastern Europe. It applies to a wider range, and should include the countries of the old western democracy. The former group of countries needs to learn that rights must be provided for all, and not treated as a privilege given to minorities, while some of the countries of liberal democracy need not be afraid of minority rights, since their development leads to the stability and progress of minorities, as well as the majority. The recognition, protection and promotion of minority rights are important in avoiding being a constant threat to the international security, and preventing a humanitarian crisis. In order to prevent conflict is important to build a democratic state in which all ethnic groups will not increase their own security, political and economic advantage at the expense of the security, political and economic interests of other groups in society. A precondition for this is a mutual agreement.

The position of the minorities in this region is related to the fact that the minority question is the key problem in the organization of the political, cultural and economic life, and not a side phenomenon that can be resolved by technical adjustments. Facing the minority question, the society deals with the crucial questions of its structure. The position of the minorities in Croatia and Macedonia needs to be analysed in the general European context. The West had the illusive expectation that democratization, the multiparty system and being oriented towards economic prosperity would automatically solve the problem of the South East of Europe together with the minority in question. This approach is based on the opinion that the pattern of states forming can be applied in this part of Europe as well, and that an institutionalized system can be created, within which ethnic differences are free to continue. In Macedonia, there is a tendency of the increase in the number of one minority, unlike Croatia, where the number of minority members is decreasing. The implementation of the Ohrid Agreement has, in the change of the legislation that it involves, expanded the space of minority rights, especially for the Albanian minority, promoted and influenced the development of a civil society, influenced inclined instead influenced of the local self-government, the decentralization of the state authority, and the further development of the multicultural society. Thus, the national state is being transformed into a multinational one. The implementation of the Ohrid Agreement has significantly improved the minority question, without providing territorial autonomy, although only the largest minority is involved, rather than all of them. In the policy and constitutional history of the country a new page was opened because exclusive majoritarian democracy was replaced with a new constitutional and political arrangement called power sharing. This kind of political arrangement produced greater security and stability in the country. The key role that made the "power – sharing" model successful was pressure, presence and support of the international community. One of the basic critics for this model is reducing democracy to consent among the ruling elites. In this area politics is more about usurpation of power than a "democratic game". There is no will to play fair and give power to institutions because the juridical system is often too weak (politically dependent or sometimes corrupted) to impose justice. The institutions are self-sustaining. Other problems in securing minority rights are high rate of unemployment and difficulties of securing loyalty in an environment where majority creates a nation state.

By a number of legal acts, Croatia has provided a high level of protection for the minority members, and the state participates in the development and preserving of the cultural autonomy of all minority communities in Croatia. However, although there has been a more intense development of the civil society, there is a lack

of minority integration into the Croatian society at all levels. Both the states have arranged their minority question in accordance with the special regulations resulting from the Constitution (Croatia - through the Constitutional Law of Minority Rights, Macedonia - through the Ohrid Agreement). But for ten years Constitutional Law had not been fully implemented in praxis. Nonetheless, the best form of the minority status arrangement is secured by a bilateral agreement. Croatia, for example, has bilateral agreements with 5 countries, Hungary, Italy, Serbia, Montenegro and Austria, while Macedonia has signed only one, with Serbia, and is preparing another, with Croatia. It is evident that bilateral agreements arrange the two most significant questions related to the status of minority communities: cultural autonomy, the use of minority language and writing, the right to political representation.

Liberal multiculiculturalism theory can be adopted by countries where the national building process has been finished; Macedonia is not quite an example, or in countries where minorities are not seen like some kind of enemies, which is not the case in Croatia. The liberal multicultural theory has a chance in countries which can provide equal opportunities for all citizens and where differences can be accepted and not seen like hostile ones. In both Croatia and Macedonia minorities must fight for their position, necessary by participation in the political domain. Both countries are giving "special rights" under the pressure of the international community, not because they realize it as the right thing to do or it is fair because of the equality of all citizens. In both countries the opinion is focused on losing position or opportunities for majority nation if it is given to minorities. Although in the last 5 years national minorities are part of ruling coalition, it doesn't form of power sharing, because it is a fragile coalition in which minority representatives try to achieve better position for their own minority. In 2008 Croatian government prepared Action plan for implementation in the Constitutional Law about national minority rights. Why is it necessary for Croatia to bring the Action plan after six years of Law existing? Does it mean that Constitutional Law has not been implemented? The biggest problems concerning minority rights are employed in public administration. The Action plan did not improve this situation.

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