



## Report

### “On minority protection and policy recommendations as applicable to South East Europe”

Petra Roter, Ph.D. (*Cantab.*)

#### 1. Introduction

The purpose of this report is three-fold:

- (i) it provides a framework for understanding and analysing minority protection (i.e. access to minority rights) as derived from the Council of Europe’s Framework Convention for the Protection of National Minorities, and other instruments, particularly the European Charter for Regional or Minority Languages, and as interpreted by independent experts – members of the Advisory Committee as well as the Committee of Experts.
- (ii) seeks to summarise and analyse the core findings of the joint project of the Council of Europe and the European Union on *Promoting Human Rights and Minority Protection in South East Europe, funded by the European Union and implemented by the Council of Europe* as developed by the project’s beneficiaries;
- (iii) analyses the state of affairs in the field of minority protection in South East Europe, which was the area covered by the project. This is done based on the most recent available Opinions of the Advisory Committee of the Framework Convention for the Protection of National Minorities.

Promoting Human Rights and Minority Protection in South East Europe



This analysis is then used to suggest a number of further recommendations about the areas of minority protection that warrant further attention by the international community and international organisations such as the Council of Europe and the European Union. In particular, the areas identified are those that can benefit greatly from further well-targeted projects and finances attached to such projects with a view to promoting minority rights, implementing them in practice and thus enabling persons belonging to national minorities to be able to enjoy those rights effectively.

Overall, this report therefore contributes to the core goals of the project on *Promoting Human Rights and Minority Protection in South East Europe, funded by the European Union and implemented by the Council of Europe* - namely, to implement minority rights with a view to helping states preserve and develop ethnic diversity while securing peace and stability, develop good inter-ethnic relations at different levels (local, regional, national and inter-state), and to achieve the objective of becoming integrated societies in which individuals are free to express and live their different ethnic identities without being perceived as threatening the coherence of societies and therefore stability of the state.

The report is based on a number of primary sources, particularly all documents produced by the project, particularly the final recommendations developed at policy meetings in all beneficiaries, and on primary documents adopted by the relevant international expert bodies such as the Advisory Committee. Additionally, the report draws on a number of observations and informal interviews conducted by the author with individuals involved in the project, both the beneficiaries, representatives of municipalities and the Council of Europe staff responsible for the implementation of the project. The author of the report participated at two events where those interviews and data collection through personal observation were possible: a capacity-building workshop in Belgrade between 13 and 15 July 2016, and the final conference in Tirana on 16 and 17 November 2016.



## 2. Analytical framework for minority protection: international standards on minority rights

The Council of Europe has two core legal instruments that provide for the protection of national minorities – i.e. their identity, characterised by distinct identity markers such as minority language, culture, habits, religion. These core legal instruments are:

- 1) The Framework Convention for the Protection of National Minorities (opened for signature in 1995, and entered into force in 1998; it has been ratified by 39 Council of Europe's member states and it is also applicable in Kosovo\*<sup>1</sup>, in conformity with the 2004 Agreement between the United Nations Interim Administration in Kosovo (UNMIK) and the Council of Europe.
- 2) The European Charter for Regional or Minority Languages (opened for signature in 1992, entered into force in 1998; it has been ratified by 25 Council of Europe's member states).

The treaties deal with the issue-area of minorities differently, but they play a complementary role: if the Framework Convention for the Protection of National Minorities is primarily concerned with providing access to minority rights for persons belonging to national minorities, then the European Charter for Regional or Minority Languages seeks to protect regional or minority languages. With minority language being one of the core characteristics of many persons belonging to national minorities, the European Charter thus provides an important set of legal guarantees for the protection of minority languages, although it stops short of protecting the rights of their speakers.

The Framework Convention for the Protection of National Minorities includes a set of minority rights that all form an integral part of human rights. The goal of minority rights of

---

<sup>1</sup> \* All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.



persons belonging to minorities is to achieve their effective equality (in law and in practice).

To this effect, **special measures** are needed to:

1. prevent discrimination,
2. achieve equality,
3. enable the preservation and development of minority identity – language, culture, religion.

In order to achieve these goals, everyone needs to participate and be involved: persons belonging to minorities and those belonging to the majority community or communities. The final outcome is expected at two levels: at the level of individuals, equality is to be guaranteed while individuals are able to preserve and develop their distinct identity; at the level of society, integration is expected, whereby integration refers to the entire society, and not to minorities being under pressure to integrate into the dominant society and the patterns of the dominant communities. Integration of societies is therefore a long-term goal that requires constant attention and negotiation about appropriate policies to achieve the goal.

Minority protection as a set of core principles and substantive rights, all intended to achieve the above-mentioned goals, include the following core elements:

- ☐ Everyone is free (not) to identify as a person belonging to a minority (BUT: societal 'climate' is important) – no negative advantage
- ☐ Full and effective equality (specific conditions need to be taken into account)
- ☐ To maintain and develop minority culture + preserve identity: language, religion, cultural heritage, traditions (no assimilation)
- ☐ Tolerance and intercultural dialogue, respect among everyone in a territory (the entire community)
- ☐ Freedom of religion (religious institutions, organisations)
- ☐ Freedom of expression – receive info in minority language, also create and use minority media, media for promotion of tolerance and cultural pluralism;

Promoting Human Rights and Minority Protection in South East Europe



- ▣ Free use of minority languages – public/private, writing/speaking: use of language with public authorities (as much as possible);
- ▣ Use of minority names, display private information visible to the public, display topographical indications (under certain conditions);
- ▣ Information of all communities (culture, language...) in education; adequate teacher training and materials; equal opportunities to access different levels of education;
- ▣ Right to learn a minority language – teaching in and of the minority language (also the official language)
- ▣ Right to participate effectively in cultural, social and economic life and in public affairs – create conditions for this;
- ▣ Free and peaceful contacts across state borders; international co-operation (good neighbourly relations).
- ▣ Specific for the protection of minority languages - areas:
  - Education
  - The judiciary
  - Administrative authorities, public services
  - Media
  - Cultural activities and facilities
  - Economic and social life



### 3. Policy recommendations as derived from the project

Although this project was of a very limited duration and scale (small grants), it has demonstrated a number of direct (short-term, tangible) and indirect (long-term) benefits as identified by the project's local partners.

Among the direct benefits, most small grants were used to:

- protect cultural identity of persons belonging to national minorities;
- use of minority languages – in education, in public institutions, in the media;
- inclusion of minority children in education, including at the pre-school level;
- enable participation of persons belonging to national minorities in designing and implementing of projects on access to minority rights;
- increase the visibility of national minorities in the public domain;
- improve inter-ethnic relations and understanding in diverse societies;
- increase employment and employment prospects of persons belonging to national minorities;

A set of recommendations stemming from the experience with small grants from the project include the following ones:

- 1) Design (local) cultural policies need to be based on inter-ethnic and inter-cultural dialogue and understanding.
- 2) Increase opportunities for the use of minority languages in communication, visible signs, in the media and in education, and provide for appropriate incentives to this effect.
- 3) Invest in the educational sector: training of teachers, preparation of text-books and organisation of events promoting inter-cultural and inter-ethnic understanding and exchange.



- 4) Use all means available to ensure effective participation of persons belonging to national minorities, including different segments within those communities such as women and youth, in all stages of policy-making, including in decision-making.
- 5) Create opportunities to inter-ethnic dialogue, interaction and communication so as to decrease inter-ethnic distance between communities.
- 6) Raise awareness of national minorities, including by co-operation with the civil society and the media.

The indirect benefits have included:

- The inclusion and active involvement/participation of local authorities and local self-governments in minority protection in the context of the implementation of small grants (so even in those local contexts where the local self-governments play no specific role in the field of minority rights according to the national legislative context). This has contributed to building awareness of national minorities and minority rights, and the capacity to implement minority rights at the local level. It has also paved the way for raising awareness of the significant role of local self-governments in minority protection and for their inclusion in decision-making on minority protection and diversity management in general.

*RECOMMENDATION: Any further development of minority-related policies and implementation of minority rights needs to guarantee effective participation of different actors involved in this process. Those include the local authorities and persons belonging to national minorities, while respecting the diverse character of local populations, including national minorities themselves.*

Creation of some basic infrastructure (e.g. the purchase of media equipment, translation equipment, books for libraries) for long-term access to minority rights.



*RECOMMENDATION: The basic infrastructure that has been established with small grants now needs to be supported with additional funds to upkeep it, develop it further and to be used by properly trained individuals and/or beneficiaries (persons belonging to national minorities and those belonging to majority population).*

Implementation of national action plans and policies at the local level. This required appropriate (re)organisation of the local authorities and local plans, including the budgetary allocations.

*RECOMMENDATION: The local level is crucial in any implementation of minority rights, but its activation and appropriate organisation will be better stimulated by additional resources, rather than by expectation that the local authorities will redefine the spending of their already very limited resources once they will acquire appropriate competences in the field of minority protection.*

Implementation of specific minority rights, such as the right to use personal names in a minority language and script, often require some basic infrastructure (computer programmes), but above all civil servants who understand the significance of this right and who will be able to implement it in practice without any additional procedures and mistakes. Similarly, access to basic human rights (social and economic rights, or to health care services) of persons belonging to national minorities often depends on adequately trained workers in the public sector.

*RECOMMENDATION: Effective access to minority rights depends on appropriate resources and opportunities, and equally important – on appropriately trained and culturally sensitive officials and civil servants who are in contact with persons belonging to national minorities. Local authorities need to be helped to provide for appropriate training of employees in the public as well as private sector, as applicable to the specific local context but in line with international standards on human and minority rights.*



Implementation of human and minority rights requires co-operation of many actors – the authorities, minorities, non-governmental organisations and the civil society, the media and many individuals in the public sector, but also in the private sector that can importantly contribute to the realisation of the set goals in this field.

*RECOMMENDATION: Local authorities need to engage a broad set of different actors, assign them relevant roles, including for the non-governmental actors. Such co-operation will contribute to transparency of the process of implementing human and minority rights, including through project implementation, and hence to building trust in local communities. Appropriate procedures need to be put in place so as to prevent unfair competition and instrumentalisation of minority issues for gaining certain benefits, rather than ensuring minority protection in practice.*

Full and effective implementation of minority rights requires a social context that is conducive to self-identification of individuals as persons belonging to national minorities and to their ability to access minority rights. In the region of South East Europe where recent conflicts and wars and often tense inter-state relations often lead to many societal obstacles to the enjoyment of minority rights, general climate and its improvement plays a significant role in minority protection.

*RECOMMENDATION: The authorities, at all levels, need to pay attention to diversity and minorities as an integral part of diverse societies. This applies to the public discourse, the media and to even symbolic acts that – if genuine – can be understood as embracing diversity at the national and local levels. This is important as it is only in such an environment that persons belonging to national minorities will actually use the opportunities available to them, including those to learn and use a minority language. Crucially, such opportunities should not be secluded and reserved to persons belonging to minorities alone, but they should be open to entire communities so that ethnic distance can be reduced and entire societies could adjust to the diverse realities. It is particularly important that employees in the public sector are properly trained and that they provide for opportunities for persons belonging to national*



*minorities to be able to enjoy minority rights (e.g. speak a minority language). The media and education will play a crucial role, and politicians and community leaders are instrumental in this process.*

#### **4. State of affairs of minority rights in South East Europe**

International monitoring mechanisms such as the Advisory Committee under the Framework Convention for the Protection of National Minorities regularly evaluate the implementation of minority rights in practice, whereas the Committee of Experts under the European Charter for Regional or Minority Languages monitors the protection of minority languages in states parties to this international treaty. Based on the wealth of documents produced by these international monitoring mechanisms over the years, i.e. since both instruments entered into force in 1998, demonstrate very concrete needs and problems faced by persons belonging to national minorities in the region of South East Europe, and more broadly.

##### **Use of minority languages:**

Learning of and teaching opportunities in minority languages remain limited, with limited teaching materials and the lack of properly trained teachers; persons belonging to national minorities face many difficulties in using their first languages in communication with civil servants; topographical indications and other official signs often ignore the presence of national minorities in localities; personal documents are issued without taking account of the forms and spelling of names in minority languages and scripts;

##### **Education:**

In addition to limited opportunities for learning minority languages, the education sector is in need of a thorough reform across the region in terms of its substance and approach to teaching subjects that are particularly sensitive to inter-ethnic relations. What is notably missing is enough substance on the presence of national minorities as an integral part of societies,



contents that would enable inter-cultural exchange and promote inter-ethnic understanding and co-operation. This includes teaching of history through multiple perspectives. In some cases, education still continues to be organised in a way that promoted ethnic segregation and apartheid-like practices even in extra-curricular activities. Efforts to create opportunities for dialogue are left to the non-governmental initiatives and there is no effort to inform parents about the long-term consequences of such segregated education.

### **Development and protection of minority cultures:**

Cultural policies overwhelmingly support the dominant cultural patterns and practices. Persons belonging to national minorities find it difficult to promote their culture and finance their cultural activities; in some instances, they need to rely on support by their kin-states; decision-making on the disbursement of very limited funds is frequently not transparent, criteria for fund allocation are not clear, minority organisations are put in a position to compete for limited resources for cultural activities with more established and better organised national institutions; states seem to prefer public tenders for fund allocation, whilst ignoring the need to provide for some baseline funding of minority institutions; funds for minority cultural activities typically provide for the promotion of traditional expressions of culture, whilst often ignoring modern forms of cultural expression, thereby leading to the process of folclorisation of minority cultures.

### **Effective participation of persons belonging to national minorities in decision-making processes:**

Effective participation of persons belonging to national minorities remains a notable problem across the region, in all issue-areas. There are problems with effective participation even in cases where representative minority institutions exist. Those lack powers or resources, are themselves not fully representative of diversity within minorities, and are instrumentalised for various political goals.



### **The media:**

At least three broad problems have been identified with regards to the media: firstly, persons belonging to national minorities find it difficult to produce media contents, particularly due to the lack of financial and human resources; secondly, mainstreaming of minority-related contents in the dominant media outlets is exceptional and the general public has very limited opportunities to learn about national minorities; thirdly, the media, and in particular the social media, are becoming an avenue for the uncontrolled expression of hate speech, negative views on diversity in general and minorities in particular.

### **Development of inclusive societies, based on respect of human and minority rights, without any discrimination:**

The region still faces many problems in terms of protection of human rights, including minority rights, based on the principle of non-discrimination, and good inter-ethnic relations. The latter frequently remain determined by limited inter-ethnic contacts, high and growing social distance between communities and the lack of inter-cultural social capital. National institutions created to monitor and address problems in the issue-area of protection of human and minority rights in some cases lack independence, funds and human resources. The dominant political discourse is becoming increasingly intolerant and openly racist, xenophobic and anti-minority, and the law enforcement and the judiciary do not seem to be able or willing to address such a discourse. Simultaneously, the existing institutions are unable to effectively deal with hate speech and anti-minority rhetoric in social media. All this seems to suggest that the anti-minority rhetoric is being gradually (more) acceptable, which negatively affects any prospects for being able to build inclusive and integrated societies in which national minorities are recognised as an integral part. Although it is only in such societies that persons belonging to national minorities can fully enjoy minority rights, political elites, at the national and local levels, seem to be observing the developments at best, and actively participating in anti-minority rhetoric at worst.



**Limited scope of application of minority rights:**

Some states continue to find it difficult to ratify international instruments, or to apply a flexible approach to the implementation of international norms included in those instruments. This is seen in: a lack of national legislation to provide for a framework for minority protection; a limited understanding of national minorities whose members could benefit from access to minority rights; an externally imposed approach to national minority identification as opposed to the approach based on free self-identification of individuals; a lack of data collection exercise (in the form of national censa or through sociological studies) and thus a lack of data that are needed to design suitable policies on minority protection and diversity management more broadly. Such a limited scope of application of minority rights often leads to increased interest, sometimes involvement, of kin-states seeing to support their kin-minorities in other states. In a region where a number of inter-state relations are burdened by the past policies and state behaviour, this external interest or involvement, or even the outsourcing of minority protection to external actors, does not seem to contribute to creating inclusive and integrated societies. On the contrary, it seems to increase tensions and anti-minority sentiments and discourse.

**Social exclusion and lack of access to basic human rights by Roma communities:**

Roma communities and persons belonging to them continue to be characterised as double-minorities – socio-economic and ethnic, thus facing a number of obstacles in their access to national minority rights and to basic human rights. They experience discrimination and very limited opportunities in employment, education, housing and health care, thus perpetuating the vicious circle of poverty and exclusion.



## 5. Conclusions

Minority protection and access to minority rights is not a goal that will happen on its own. On the contrary, the socialisation process resulting in a full embracement of minorities as an integral part of diverse societies is a process that needs both constant support and monitoring. The required support is not just moral, but also has to be tangible. This project has demonstrated that even small grants, or small grants in particular, make a huge difference in actual lives of individuals – both persons belonging to national minorities as well as those belonging to the ethnic majority group and living in a diverse society. Local ownership and active participation of representatives of different communities, including national minorities, have been two important elements that have contributed to the success of this project, given the assessments produced by the project's evaluators and given the anecdotal evidence of the beneficiaries. Small grants made a huge difference on the ground when they managed to provide for access to minority rights and thus put into practice a number of recommendations of international bodies on how better to implement international instruments.

The international community, particularly international institutions promoting minority rights as an integral part of human rights and thus crucial for integration of societies, stability and ultimately peace, should understand that without concrete investments, access to minority rights is likely to remain limited. If this project has demonstrated that small grants can make a notable difference, **it should not be forgotten that:**

- 1) Small grants have enabled the development and realisation of concrete projects, such as libraries, kindergartens, translation services and many others, that require sustainable funding. Any expectation that all costs can be now borne by the local authorities may be neither realistic nor productive. The whole concept of local ownership of internationally agreed and monitored standards seems to suggest the need to also share the financial burdens. Accordingly, international financial initiatives and



support **should reserve the funds for co-financing** of projects seeking to provide access to minority rights in particular, and to manage diversity in general.

2) Such financial instruments need to provide for **sustainable** funding so that minority-related initiatives can develop into (semi)permanent instruments in diverse societies. Access to minority rights cannot be dependent on success or failure of elections or international projects as such uncertainty prevents the development of permanent mechanisms and instruments enabling access to minority rights. Initially, **international support** is crucial so that societies can see the tangible benefits of such locally developed projects, and they can gradually secure local and national funds to the same goals. International financial support should therefore be also used so as to help diverse societies understand the need to secure funds for diversity management and access to minority rights, similarly to securing funds for all other needs governments seek to fulfil.

3) Financial schemes should take into account also the broader societal context in which minority rights are to be guaranteed. Such broader societal context often means that whereas small grants contribute importantly to the implementation of specific minority rights (e.g. the use of minority languages or the learning of the official/state language in pre-school education), societies also need **to invest in infrastructure in minority-populated areas**, particularly if those are under-developed, without proper infrastructure to provide for jobs or access to the high-speed internet. With such investments, extensive international and internal emigration can be prevented, societal tensions reduced or effectively managed, and access to rights provided more efficiently (e.g. high-speed internet opens up a number of opportunities for access to minority media, language learning and exchange of some cultural practices).

4) The concept of **local ownership** needs to be supported and its implementation monitored so that persons belonging to national minorities can participate effectively in all phases of designing services locally, regionally and nationally, as well as at the level



of inter-state relations. Minority protection requires efforts from all members of a society, and persons belonging to national minorities need to be involved actively and meaningfully so that their needs can be understood and addressed in a particular (local) context. **Effective participation** of persons belonging to national minorities should therefore always be guaranteed, including at the local level that is well suited to address their specific needs and concerns.

5) Access to minority rights critically depends on committed and educated **individuals** who will be able to see the long-term benefits of diversity management and minority rights and who will be able to lead this processes at different levels of governance. International schemes should therefore always pay sufficient attention to **training of individuals and to capacity-building among decision-makers, community leaders and representatives of different ethnic groups**. Importantly, **diversity within those groups** should always be taken as a criterion for the selection of individuals gaining access to such training and capacity-building. This means that different segments of communities should be represented, including women, the youth, individuals coming from different regions and local communities, urban and rural, possibly facing different challenges when implementing minority rights and managing diversity. Such training should enable individuals to acquire specific competencies to apply for projects and to raise additional funds, for example, but it should also aim at acquiring the so-called soft skills, which will help individuals implement human and minority rights effectively.

6) Minority rights are a set of norms that can be implemented, and that need to be implemented, according to the needs to persons belonging to national minorities and applicable to entire societies. As those are diverse and patterns of diversity also differ, any approach to minority protection needs to balance very carefully the specific needs and those that are shared more broadly. This means that some services providing for access to minority rights will necessarily be specific for a particular local context, but many others can be shared by different localities, and some can be applicable to the



regional or even national level. The bottom-up approach to such joint schemes should include apt opportunities for presentation of **best practices that can lead to inter-municipal, intra-regional or inter-regional and national co-operation**. The authorities at the higher levels of governance should seek to provide **incentives for such co-operation**.

7) Similarly, when providing guidance and financial support to states, international institutions should **carefully balance the broader and the locally specific issues** that can effectively guarantee access to minority rights. In practice, this includes on the one hand support for drafting of appropriate legislation and building capacities to design the budget accordingly, and on the other hand, it also includes support to concrete projects (e.g. in the form of small grants) that will bring minority rights to everyday reality of the beneficiaries and the local communities.

In sum, this project has demonstrated that **small grants can indeed very importantly and meaningfully contribute to the actual implementation of minority rights in practice**, according to the **guidance provided by international monitoring mechanisms**, and by **effective participation of all stakeholders** involved in this process, including the local authorities and above all, persons belonging to national minorities as well as those belonging to non-minority communities and living in diverse societies. Consequently, the need to sustain the existing basic infrastructure is very imminent, as well as incentives for many other local self-governments to follow suit, also based on the good examples of how access to minority rights can be guaranteed, whilst not endangering the non-minority population and whilst improving inter-cultural and cross-cultural learning and knowledge at the local level. This project has demonstrated that small grants indeed can help promote the understanding that the outcomes of those grants are beneficial for the local communities as such, and for persons belonging to minorities in particular.

The best approach to promoting minority rights therefore should not underestimate both creating a suitable and appropriate national context for minority protection, and involving the

Promoting Human Rights and Minority Protection in South East Europe



local self-governments and all other stakeholders at the local level to identify their needs and best ways of addressing them. The international communities, with various international institutions, has a crucial role in this process – by providing guidance in terms of standards and norms, by monitoring the implementation of those norms, and by supporting financially the reforms that are needed in states, the creation of the infrastructure needed to provide for access to minority rights and the training of individuals involved in diversity management and minority protection at different levels of governance. Only such a comprehensive approach, which includes possibilities also for small scale projects, will stand a chance to contribute to managing diversity effectively and to integration of diverse societies as the ultimate goal.