



International Centre for Democratic Transition

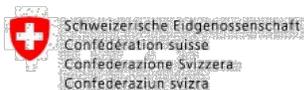
Background material

**For the International Conference organized in the framework of the
“Minorities in Transition” project**

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Hungarian Academy of Science**

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**The conference is organized in cooperation with the
Research Institute of Ethnic and National Minorities, Hungarian Academy of Sciences**



RESEARCH INSTITUTE OF ETHNIC and NATIONAL MINORITIES
Hungarian Academy of Sciences

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1. Background information on the Project

Minorities are usually among the losers in the process of democratic transition, even if they often play a fermenting role at its onset. The political elite generally swiftly changes in its attitude towards the minorities: while it regards them as allies in the fight against tyranny, after that fight is won, the attention soon shifts to their conflicts.

At the same time, the minorities face tough challenges themselves. In an authoritarian regime, their fight for the preservation of their existence as a minority is naturally combined with the fight against the regime; but after the toppling of that regime, the minorities' struggle for their identity – which they always pursue against the currently prevalent regime – becomes a fight against the new, nascent but weak democracy.

The project's central purpose is to **explore the role** that national minorities have played in the process of democratic transition in South, Central and Eastern Europe and to **identify best practices** developed in the target countries to support minorities in realizing their interests.

In the case of Central and Eastern Europe, by democratic transition we mean the process in which formerly authoritarian states advance towards Euro-Atlantic integration structures. In our understanding, the end of this process is marked by the accession to the European Union.

The project is focused on two principal areas:

1. The role played by minorities in launching the process of democratic transition
2. The development of minority rights, local government models, different forms of autonomy, and the application of the principles of subsidiary and decentralization during and after the transition

By collecting data and experiences, ICDT ultimately aims to analyze the role minorities played, the challenges they faced, the potential pitfalls and drawbacks of transition from a minority point of view. We intend to offer **recommendations on how to make minorities involved in the transition, and make them a force which pushes the process forward rather than backward.**

The project has two phases. The first one consists of Preparatory Workshops. **Three workshops** were organized to collect the experiences minorities played in the transitions of Central Europe (**Budapest, 23 February 2007**: Poland, Hungary, Slovenia, Slovakia, Czech Republic), Eastern Europe (**Tallinn, 30 Mars 2007**: Estonia, Lithuania, Latvia, Belarus, Ukraine, Moldova) and South Eastern Europe (**Skopje, 27 April 2007**: Romania, Bulgaria, Serbia, Montenegro, Kosovo, Albania, Croatia, Bosnia-Herzegovina, and Macedonia).

The participants were policy makers, international and local experts and researchers from the target region. Most importantly the workshops included countries which had experienced a transition, which are undergoing transitions and those where transition did not start yet. In this way the countries that went through a successful transition were able to offer their first-hand knowledge to those just undergoing one or have not started the process yet. Our goal was to have two-three participants from each country.

A **predefined set of considerations** were used to describe the role minorities played in the process of democratic transition in individual countries. Methodology used includes:

- 1) Compare and contrast **minority policies** of the individual countries before and after the transitions
- 2) Compare and contrast the **applicable laws and other legal measures** to defend minority rights before and after the transitions
- 3) Compare and contrast other **institutions and mechanisms** (e.g. Ombudsperson Institution, Local Minority Self-Government) to defend minority rights before and after the transitions
- 4) Make these comparisons within the individual countries, as well as, **cross-country** level
- 5) Write a **report** analyzing the above issues

The international conference to be held in **Budapest on 24 May 2007**, entitled "**Minorities in a New Europe**" will serve to review and discuss the results of the three workshops. Focus will be

on comparing and contrasting the roles different minorities played in the process of democratic transition on a cross-regional basis. The conference will gather policy-level decision-makers, minority leaders, researchers, experts and media representatives in Budapest. The goal of the conference is to emphasize the role minorities played and can play in transition and to make the participants and ultimately wider audiences aware of the challenges minorities and majorities face during and after the transition process.

A conference report will be published. It will summarize the reports issued during and after the preparatory workshops and identify the key challenges minorities and majorities face during a transition and contain **concrete policy recommendations** on how to avoid potential pitfalls.

2. Discussion Paper

Prepared by Attila Komlós, Senior Expert

I. Weak or strong state?

Describe the characteristic of the state in which you are live in

The taming of *ethnic nationalism* and the dismantling of *authoritarianism* are the major tasks of democratization in all countries in transition. This process is further complicated by *the weak state syndrome*, another hallmark of transition, which discourages state authorities from sharing power with an equally weak civil society, let alone with different ethnic groups inhabiting the state. Instead, this syndrome seems to motivate *the ethnic majority to concentrate all power in its own hands*, as ethnicity remains only stable frame of reference in a society with many highly volatile structures. By complicating the introduction of participatory democracy, *the weak state*, by definition, *inhibits the enforcement of democracy*. Full-blown democracy implies a *strong state*.

II. Why do we think that the European post-communist states after 16 year of changing the political regime still are in transition to democracy?

1. Defining political regime of your state:

- 1.1. positive sector: in which democratic regimes are located
- 1.2. negative sector: in which non-democratic regimes are located
- 1.3. transition zone: that separates the two sectors from each other

2. Defining democracy of your state:

- 2.1. democracy is a political regime that is characterized by
 - 2.1.1 free elections
 - 2.1.2 constitution
 - 2.1.3 separation of the three sources of power (legislation, judiciary, execution)
 - 2.1.4 universal suffrage
 - 2.1.5 change of governments
 - 2.1.6 respect of human, civil and political rights

3. Defining types of civic democracy of your state:

- 3.1 individual liberal democracy
- 3.2 republican liberal democracy
- 3.3 consociational democracy
- 3.4 multicultural democracy
- 3.5 ethnic democracy

4. Defining types of quasi-democratic or non-democratic characteristic of your state

- 4.1 control
- 4.2 herrenvolk democracy
- 4.3 ethnocracy

5. *In the democratic transition, how do you see the role of the*

5.1 ethnic democracy and

5.2 multicultural democracy

Which type of democracy is the main characteristic of your state?

6. How do you see the temptation of the atavistic model of classical, homogeneous nation-state in your country?

7. How do you see the influence of regionalization and globalization on the models of democracy?

III. What is the role of minorities in the democratic transition in your country?

1. *Defining basic notions*

1.1 Definition of „nation”

1.2 Definition of „ethnic nation”

1.3 Definition of „non-ethnic (civic) nation”

1.4 Definition of „ethnic group”

1.5 Definition of „ethnic minority”

1.6 Definition of „national minority”

1.7 Definition of „traditional, autochthonous minority”

1.8 Definition of „refugee minorities”

2. What kind of role have been played minorities in the democratic transition before 1990?

3. What kind of role play minorities in the democratic transition present days?

IV. Compare and contrast in these respects what are the characteristics of your state?

1. Compare and contrast *minority policy* of your country before and after the transition

2. Compare and contrast the *applicable laws and other legal measures* to defend minority rights before and after the transition

3. Compare and contrast other *institutions and mechanisms*

3.1 Ombudsperson Institution,

3.2 Local Minority Self-Government

to defend minority rights before and after the transitions

4. Compare and contrast *language policy* of your country before and after the transition

5. Compare and contrast *educational policy* of your country before and after the transition

6. Describe the *autonomy policy* of your country

6.1 personal autonomy

6.2 cultural autonomy

6.3 collective autonomy

6.4 territorial autonomy

V. What kind of interference can be observed in your country between the process of democratic transition and the life of minorities?

1. The effects of minorities on the democratic changes
 - 1.1 Before the political changes: minorities have been partners of majority
 - 1.2 After the political changes: minorities are conflict groups for the majority
2. The effects of political/democratic transition on the life of minorities
 - 2.1 Positive symptoms (force forward)
 - 2.2 Negative symptoms (force backward)

VI. What is the role of European Union in the democratic transition of the Central and Eastern European states concerning the minority question?

The main questions for the workshops

1. Is it true, that the former 10 EU states serve a very positive model to emulate and the EU integration process is a firm moderating force of the ills of ethnonationalism, ethnic domination and violation of human and minority rights?
2. Does the EU have a minority policy?
3. What should be the major tasks on European level?

Background information to the questions

Does the European Union have a minority policy?

1. After the end of the divided Europe and the beginning of the transition the Council of Europe adopted two legally binding documents (the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages), which most Council of Europe member states have ratified. The Council of Europe established a well functioning monitoring mechanism. The Council of Europe also has a human rights ombudsman, not specifically for minority rights, but the ombudsman can also deal with them. Therefore it is a crucial question, whether we should try to elaborate on the EU level a new convention or make use of the Council of Europe's existing documents and structures?

2. There are still no comprehensive standards concerning minority rights and minority protection mechanisms and monitoring in the EU. The Copenhagen European Council in 1993 defined the political criteria that all applicants must meet before they could join the European Union. Namely, among other things, they must respect and protect minorities. This is a soft law, because the Amsterdam Treaty failed to integrate the minority rights contrary to the Copenhagen decision, and it is clear that there are no minority rights standards which would have been integral part of the *acquis communautaire*. Therefore, we welcome the draft of the Constitutional Treaty, which provides the criteria of respect for human rights including the 'rights of persons belonging to minority groups'. This would be the first legally binding reference on the minority rights in the history of the European Union. The adoption of the Constitution would be therefore a real historical turning point in the minority protection on EU level.

3. Despite the lack of coherent Community hard law, minority policy, the logic of EU's development has contributed to a more and more minority-friendly policy framework in the EU through various indirect instruments, such as cross-border co-operation, regionalization, the carrying out of the principle of subsidiarity, cultural diversity, nondiscrimination and the fight against any kind of discrimination. The developments of the Euro-regions are establishing more and more favorable conditions for the preservation of the identity of national minorities.

4. On the level of the Member States, there are several regulations regarding minority rights and there are some very positive examples: the protection of Swedish speaking Finns, or the most progressive example of territorial autonomy in Southern Tyrol in Italy. The most efficient language law in the whole Europe, the Welsh language act in the United Kingdom stopped the linguistic assimilation. It led to a very rare phenomenon, namely, a real renaissance of the use of the Welsh language. The growing degree of Catalan autonomy is also encouraging.

5. Several countries in Europe has failed to fundamentally reform their reserved approach to the minority issues. This is the main obstacle that stands in the way of elaborating a legally binding minority protection mechanism on the EU level. Leading European countries such as France or Greece do not acknowledge the existence of minorities as such, and refused to ratify the two legally binding instruments of the Council of Europe.

6. Many in Europe underestimate the importance of the question of minorities. They give simplified answers, especially in the case of new minorities. Mr. Tony Blair speaks about fighting against terrorism in vain, if there are no answers for the integration of the new minorities. It is crucial to have a new integration policy in Europe.

7. The enlargement of the EU by the 10 new Member States brings a challenge to the minority policy. Despite the fact that there are no Community standards in the EU, the Union was relatively consistent for monitoring the situation of national minorities in the applicant countries. The regular reports prepared about the situation of minority rights in the 10 new countries reflected this contradiction. The criticism formulated by the EU was lacking a clear set of criteria and a consequent approach.

8. The EU finds itself in a "mouse-trap situation", because the accession criteria formulated in Copenhagen in 1993, as well as the monitoring process of the enlargement remains obligatory for the Member States. This means that the Member States may not ignore these level of requirements, but should respect them. We can observe an awkward situation: double standards. If we compare the minority rights in the 10 and the 15, we certainly come to the conclusion that the level of the direct protection of the rights of minorities in the new Member States is higher than in the EU-15. To a large extent, it is a consequence of the Copenhagen criteria and the monitoring process.

9. What will be the future of the minority rights in the enlarged EU? The new Member States will decrease the level of the protection of minority rights - which scenario should be avoided - or the old Member States will adjust their current regime to that of the new countries? We must preserve our achievement not because of the EU, but because of our internal stability, of good neighborhood, and of good regional cooperation.

10. Minority protection is more or less satisfyingly handled and approached in all the EU- 10, except for Latvia. In none of these countries is any danger of conflicts, especially not interstate conflicts because of minority disputes. This does not mean that minority issues are solved for ever, as these have to be addressed continuously and in a developing way.

11. The EU-10 do not have internal or bilateral, interstate conflicts which would be unmanageable, such as the Northern Ireland crisis, or the extremism in Bask country or Corsica. It is very important that our partners be aware that we have not brought any minority crises into the EU, which we were unable to handle.

12. There are visible conflicts stemming from minority tensions in Europe, some of them armed (most notably Chechnya). These conflicts include the Basque Country, Corsica, Cyprus, Northern Ireland, the Kurds in Turkey, Transdnistria, Kosovo, etc. Wherever there are still no armed conflict, it could erupt any time (e.g. in the Western Balkans).

13. The paradox is that the successful minorities are those, who were radical and fought armed for their cause. The only exception may be the Swedish speaking Finns, since even in South-Tyrol there were incidents before granting the autonomy (destruction of energy cables, bridges). Europe always appreciated and awarded those minorities, which stepped up violently.

14. Naturally, radicalism and the use of violence even for this just cause should be avoided at all costs. That is exactly why European Union and it's Member States should seriously consider putting the minority issue to the European agenda for the sake of the stability and prosperity of the continent. With respect to this, here is a list of tasks, concrete and pragmatic measures we have to implement and fulfill in order to to construct a truly functioning European minority protection system. It is of extreme significance to determine who will lead the actual fights, who will assume responsibility in this quest.

15. Based on the principle of subsidiarity, the minority groups should be given a right to handle the issues arising in connection with their special status. In a number of countries, some minorities are deeply convinced that only large scale autonomy schemes, including territorial autonomy, would best suit their needs. In other countries still some basic rights are at stake, for example the assignment of minority rights to citizenship or the right to citizenship at all.

16. It is greatly to be feared that the extension of the notion of the non-discrimination Directive would have a detrimental impact on the special protection of minorities. If citizens of other countries belonging to the same language community can use the special minority linguistic regime, it can lead to the fact that the states will be much more reserved to give special minority rights. This is a real danger after two decision of the European Court. The problem that there is no clear distinction between discrimination and positive discrimination emerged in the case of the Hungarian 'Status Law' as well.

17. We should also avoid any kind of illusions after the enlargement. There are some expectations towards the "EU-internationalism", whether the EU itself will solve the minority problems. Earlier, during the communist regimes, the so-called "proletarian internationalism" was unable to solve automatically the minority problems. The "liberal internationalism" proved to be

equally ill-fated. Therefore, we should not wait for any kind of EU automatism in the improvement of the protection of minority rights.

What should be the major tasks on European level?

1. We must work to make revive the EU's Constitutional Treaty and to complete the ratification process, in order to have a legal basis for the elaboration of legal standards and protection mechanism for minorities on the EU level.

2. Clarification of the legal nature of community standards: according to the practice of the European Court of Justice full ratification of an international convention by all Member States is not required for the convention to serve as a referential frame for EU standards. The Framework Convention - as part of the Copenhagen criteria - can therefore be regarded as a legal reference and a guideline in the European Union context. The recent enlargement has served as a key instrument for assessing compliance with EU requirements.

3. Clarification of the difference between equal treatment and preferential treatment is needed.

4. Clarification of the notions of autonomy, subsidiarity, devolution and self governance as basic tools for the development of the national minorities is also vital.

5. The EU has to continue the efforts to monitor the situation of national minorities in the Member States. As this is not done properly within the architecture of the EU, we have to rethink the role of the existing structures (the European Commission, the European Parliament, and also the Intergroup). The European Parliament has to be more active in the monitoring of minority rights in the 25 Member States. The setting up of the Fundamental Rights Agency is a top priority in the near future.

6. Exploring new forms and ways of cooperation to the field of minority protection: Enhanced co-operation within EU framework: Hungary, Finland, Austria, Italy or Slovenia could all play a leading role in this cooperation. These countries have the best practices in the Continent and they can be examples for the other states.

7. Linking the European Union with the Council of Europe – better co-operation in order to avoid the wasteful parallelisms: the Council of Europe has two legally binding instruments for the protection of minorities and minority or regional languages: the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages. Both have an effective control mechanism. The Charter and the Framework Convention should be integrated into the European Union's Charter of Fundamental Rights.

8. There is a need to ensure the proper representation of the regional and national linguistic minorities in the European Parliament.

9. One should consider the establishment of a Committee of Minorities, as a mutatis mutandis for the Committee of the Regions.

10. A Fund should be established for supporting the endangered languages

11. The application of double standards between the old and new Member States needs to be avoided.

12. The proper harmonization of the anti-discrimination legislative framework is needed. It is feared that the extension of the notion in the non-discrimination directive would have a negative impact on the special protection of minorities. If citizens of other countries belonging to the same language community can use the special minority linguistic regime, it can lead to the fact that the states will be much more reserved to give special minority rights. After the Court's decision, there is real danger that the nondiscrimination clause would be extended as in the case of the special linguistic regime.

13. We must differentiate between the traditional national or autochthonous minorities and the new, immigrant minorities. Both groups need a legal protection and regulation on the European level, but should be treated separately, for their problems largely differ. Therefore, elaboration of a set of standards for the new minorities, where civil liberties must be granted naturally at the same level, but the state has different responsibility towards national minorities than new minorities.

14. An additional protocol on cultural minority rights should be added (most definitely on the issue of culture) to the European Convention on Human Rights in the framework of Council of Europe. The possibility must be ensured for minorities with an additional protocol to the European Human Rights Convention to be able to turn to the European Court of Human Rights.

15. The growing jurisprudence of the Strasbourg based European Court of Human Rights illustrates, how issues related to minorities have also been raised under

- a. the right of family life
- b. the freedom of religion
- c. freedom of expression
- d. freedom of association

The task is to inform the public about the individual judgments, which - in the framework of the precedent law - must be integrated into the „toolbox” of the international minority protection.

Notes

1. To points I., II., III. see further information in: *The Fate of Ethnic Democracy in Post-Communist Europe*. Edited by Sammy Smooha and Prit Jarve. Local Government and Public Service Reform Initiative Books, Open Society Institute, Budapest 2005

2. To point VI. see further information in: *New Challenges form the traditional minorities in Europe*. MEP Csaba Tabajdi, President of the Intergroup for Traditional National Minorities, Constitutional Regions and Regional Languages, Strasbourg, 2006

3. Recommended links:

COUNCIL OF EUROPE (CE)
documents (human rights/national minorities)
<http://www.minelres.lv/coe/index.htm>

ORGANISATION FOR SECURITY AND COOPERATION IN EUROPE (OSCE)
documents (human rights/national minorities)
<http://www.minelres.lv/osce/index.htm>
High Commissioner on National Minorities
<http://www.osce.org/hcnm>

MINORITY RIGHTS INFORMATION SYSTEM (MIRIS)
Database
<http://dev.eurac.edu:8085/mugs2/index.jsp?TopBarItem=Home>

4. Recommended further readings:

Benoit-Rohmer, Florence: *The Minority Question in Europe* (Strasbourg, Council of Europe, 1996)

Packer, John: On the Content of Minority Rights In: Rääkkä, Juha (ed.): *Do We Need Minority Rights?*

(The Hague, Martinus Nijhoff, 1996)

Alfredsson, Gudmundur: Minority Rights: A Summary of Existing Practice In: Phillips, A. – Rosas, A. (ed.): *Universal Minority Rights* (Åbo, Åbo Akademi, 1995)

Thornberry, Patrick: *International Law and the Rights of Minorities* (Oxford, Clarendon Press, 1991)

Merja: The Role of the Human Dimension of the OSCE in M. Bothe – N. Ronzitti – A. Rosas (ed.), *The OSCE in the Maintenance of Peace and Security* (The Hague, Kluwer International, 1997) 95-96. o.

Estébanez, Martin Maria Amor: Minority Protection and the OSCE in P. Cumper – S. Wheatley (szerk.), *Minority Rights in the 'New' Europe* (The Hague, Martinus Nijhoff, 1999) 35-36. o.

Kemp, Walter: *Quiet Diplomacy in Action* (The Hague, Kluwer International, 2001)

Oberleitner, Gerd: Monitoring Rights under the Council of Europe's Framework Convention in P.

Cumper – S. Wheatley (ed.)

H. Klebes: The Council of Europe's Framework Convention for the Protection of National Minorities in *Human Rights Law Journal* 16 (1995)

Henrard, Kristin: *Devising an Adequate System of Minority Protection* (The Hague, Martinus Nijhoff, 2000)

Philips, Allan: *The Rights of Minorities. The Composition and Procedures of the Advisory Committee to be set*

up under the Framework Convention for the Protection of National Minorities Council of Europe Doc.

AS/Jur/DH (1996) 2.

Bíró, Gáspár: *The Supervisory Mechanism and the Monitoring Procedure under the Framework Convention for the Protection of National Minorities*, Tbilisi, 31 March 2000

Liegeois, Jean-Pierre – Gheorghe, Nicolae: *Roma/Gypsies: A European Minority*. (London, Minority Rights Group, 1995)

Roma (Gypsies) in the CSCE Region – *Report of the High Commissioner on National Minorities* (<http://www.osce.org/hcnm/documents/recommendations/roma/roma93.htm>)

Report of the OSCE High Commissioner on National Minorities to Session 3 („Roma and Sinti”) of the

Human Dimension Review Conference, 22 September 1999, Vienna, *RC.GAL/2/1999*

(<http://www.osce.org/hcnm/documents/recommendations/roma/roma99.htm>)

Report on the Situation of Roma and Sinti in the OSCE Area, 2000

3. Working Papers

A) Central Europe (Budapest)

Prepared by Balázs Vizi, Regional expert

I. Ethnopolitics and Democracy – Internal Actors and Features

There is no doubt that after 1989 one of the characteristic features of democratic transition in Central and Eastern Europe (CEE) was the rise of nationalism, inter-ethnic tensions and ethnic-based political mobilisation both in minority and majority societies.¹ The joint tasks of political and economic transition in CEE resulted in devastating political and social changes within a very short period of time. Instability and insecurity emerged in various areas of everyday life and drastic changes often lead to the reinforcement of individual and collective identities.² As Claus Offe has put it “*the unique and unprecedented nature of the East European process of transformation springs from the fact that at the most fundamental level a ‘decision’ must be made as to who ‘we’ are, i.e. a decision on identity, citizenship, and the territorial as well as social and cultural boundaries of the nation-state*”.³ The new democracies in CEE indeed not only faced the challenges of political transition from one-party rule to democracy, but also the problem of re-defining, after decades of forced internationalism under communist leadership, the identity of the state and its relation to the existing cultural and ethnic diversity that characterises many of these societies. Both national minority communities and majority nations started to re-define their nation-building endeavours in the new political framework, often leading to contrasting claims and inter-ethnic conflicts.

Ethnic diversity is also viewed as a significant issue for the political stability of nation-states. In this perspective there are two main areas, which are closely related to the efficiency of democratic institutions in handling multi-ethnic diversity: the domestic political and legal environment on one hand and the international environment on the other hand. In this paper I will make an attempt to give a sketched overview on domestic and international factors in the development of democracy in post-communist countries and their effects on the situation of minorities.

1. Democracy – word without meaning?

Democratic transition in Central and Eastern Europe in 1989-1991 was often characterized as the “third wave of democratization”.⁴ But the categorization of democracies raised concerns already at the dawn of radical political changes in the region, as Robert A. Dahl put it: “*It may seem perverse that this historically unprecedented global expansion in the acceptability of democratic ideas might not be altogether welcome to an advocator of democracy (...) Yet a term that means*

¹Cf.: Cordell, Karl (1999) (ed.) *Ethnicity and Democratisation in the New Europe*. New York: Routledge. pp. 1-6 and 32-49. and Latawski, Paul (ed.) (1995) *Contemporary nationalism in East Central Europe: unfinished business*. New York: St. Martin's Press.

² Kellas, James (1998) *The Politics of Ethnicity and Nationalism*, 2nd edition London: Macmillan. p. 216.

³ Offe, Claus (1991) ‘Capitalism by democratic design? Democratic theory facing the triple transition in East Central Europe’ in: *Social Research*, Vol. 58, no. 4. p. 869.

⁴ Huntington, Samuel P. (1991) *The Third Wave: Democratization in the Late Twentieth Century* Norman, Oklahoma: University of Oklahoma Press, pp. 3-26.

anything means nothing. And so it has become with 'democracy', which nowadays is not much a term of restricted and specific meaning as a vague endorsement of a popular idea."⁵ This statement clearly reflects the essential duality of this term, as Dahl noted both in theoretical context and in everyday speech the term 'democracy' may be understood as referring to both an ideal and to actual regimes. In general this term can be literally translated simply as the "rule of people", but it can be still interpreted in many different ways. M. Saward made an attempt to focus on logically necessary conditions of democracy and he identified 24 indices of democratization, which can be grouped into five main categories: a.) basic freedoms, b.) citizenship and political participation, c.) administrative codes, d.) measures concerning publicity and e.) social rights.⁶ Nevertheless, this institutional definition does not necessarily answer the quality of these institutions – thus, any potential definition of democracy remains vulnerable to alternative definitions. What may be a common feature of the major conceptions of democracy is that the 'rule of people' is often translated into the 'rule of majority' which requires an effective system of checks and balances to minimize the evolution of an authoritarian regime. But while majority and minority positions are institutionally defined in political terms, and democratic structures offer a competition for political parties to gain majority, the cultural or ethnic diversity of society can not be accommodated easily in this framework. Already in the 19th century the problems of ethnic division of democratic societies were raised.⁷ In Western Europe, in this period John Stuart Mill and later in the early 20th century Ernest Baker have articulated their concerns on the chances of a multiethnic democracy. Indeed the ideas of liberal democracy have emerged in ethnically homogenous states or in nation-states, which proudly based their political identity on the identification of the nation with the state. But national/ethnic unity does not necessarily entail a democratic regime, and in the same way, a heterogeneous society can also live under an authoritarian rule. The new political settlement in Europe after World War I in this aspect reflected the Wilsonian ideas on dissolving multinational empires for creating new – he hoped democratic – national states. The interwar period did not fulfil these expectations for a new system of democratic national states in Europe.

The difficulties in accommodating national diversity in democratic states seem to be persistent. One of the main problematic questions here is if heterogeneity leads to authoritarianism or democracy. Walker Connor observed that several developments after World War II "indicate a link between multinationalism and a pressure for non-democratic action".⁸ He mentions three tendencies of modern multinational states that underpin his statement. First, he observes that the concern of governments to stress their political and territorial integrity has not been "conducive to democratic responses to the growing problem of cultural-political consciousness". On the contrary "multinational states have tended to become less democratic in response to the growing threat of nationalistic movements". Second, he remarks the self-evident, though generally overlooked paradox that while so many governments exist due to the exercise of self-determination, and regularly "pay lip-service" to it, "the instances in which a government has

⁵ Dahl, Robert A. (1989) *Democracy and Its Critics*, New Haven–London: Yale University Press, 1989. p. 2.

⁶ Saward, Michael (1994) "Democratic Theory and Indices of Democratization," in David Beetham (ed.): *Defining and Measuring Democracy*, London–Thousand Oaks–New Delhi: SAGE Publications, pp. 16-17. see also Salat, Levente (2003) Southeast European Challenges to Representative Democracy in: Salat – Robotin (eds.) *A New Balance: Democracy And Minorities In Post-Communist Europe*. Budapest: Local Government and Public Reform Initiative. pp. 5-7.

⁷ Cf.: Eötvös, József [1854] (1996) *The Dominant Ideas of the Nineteenth Century and their Impact on the State. Vol. I-II.*, translated, edited and annotated by D. Mervyn Jones, New York: Columbia University Press.

⁸ Connor, Walker (1994) "Self-Determination: The New Phase," in: W. Connor: *Ethnonationalism. The Quest for Understanding*, Princeton, NJ: Princeton University Press. p. 12.

permitted a democratic process to decide a question of self-determination within its own territory are rare indeed.” Third, he calls attention to the tendency to view self-determination movements within a state as threats to its survival, and to react “violently and to justify the cruellest of treatment accorded to implicated leaders by branding them as rebels or traitors and therefore something worse than criminals.”⁹

Many other scholars reached similarly negative conclusions regarding the development of democracy in multinational societies¹⁰ but Salat rightly notes that in spite of scholar scepticism “while diversity seems to remain an enduring feature of our contemporary world, no powerful competitor has emerged to challenge the unparalleled global legitimacy of democratic rule”.¹¹

2. Political movements and democratic transition

Indeed the relationship between democracy and ethnic diversity was significant in the transitional societies of Central and Eastern Europe. As it has been already mentioned above, after the collapse of communism in the region, early predictions of swift consolidation of economic liberalism and institutions of liberal democracy failed, just like pessimistic expectations for the immanent destabilization of the region due to the rise of violent ethnic conflicts and ultranationalist political parties. Janusz Bugajski, in his extensive work on political parties in Central and Eastern Europe notes that those observers of the region’s political transition who took the above mentioned stances, either ignored or overestimated a number of essential variables, including legacies of the communist past, the social and cultural context in which the new institutions were supposed to function, the conditionalities of effectiveness of those new institutions, and the threats and challenges to democratic reform.¹² Bugajski calls attention on the diversity of democratic transitional scenarios in the region and states that the eastern half of Europe “*has witnessed enormous diversification in the pace and content of political and economic transformation, and numerous challenges to the ‘completion’ or consolidation of the democratization process. Indeed, the region as a whole can be viewed as an ongoing experiment in pluralism and liberalism, the results of which continue to vary from state to state.*”¹³ Bugajski identifies four categories of post-communist states: a.) regimes with functioning democracies and robust civil societies, b.) pluralist systems with weak democratic institutions and nascent civil societies, c.) regimes that place order above democracy, and d) unstable regimes, in which the outcome of the post-totalitarian transition is still uncertain. It can be said that the first two categories include most of the Central European and Baltic states, which have displayed a relatively greater success in building stable pluralistic democracy and a functioning civil society. Nevertheless, despite their success in developing functional democracy, several aspects of these new democracies bear the evidence of strong ethnic bias. The ethnic cleavage and the prejudices of ethnic majority are present in constitutional design, in the way in which separation of powers in the state has been institutionalized, in choice of electoral systems, in territorial-administrative

⁹ *Ibid.* pp. 12-17 and 22-25.

¹⁰ E.g. Bauböck, Rainer (1998) “Sharing History and Future? Time Horizons of Democratic Membership in an Age of Migration,” in: *Constellations*, vol. 4, no. 3. Lichtenberg, Judith (1996) “How Liberal Can Nationalism Be,” in *The Philosophical Forum*, Vol. XXVIII, No. 1-2.

¹¹ Salat, *op. cit.* p. 15.

¹² Bugajski, Janusz (2002) *Political Parties of Eastern Europe. A Guide to Politics in the Post-Communist Era*. Armonk, NY–London, England: M.E. Sharpe (The Center for Strategic and International Studies) see also Bugajski, Janusz (1993) *Ethnic politics in Eastern Europe: a guide to nationality policies, organizations, and parties*. New York: Sharpe Armonk.

¹³ Bugajski (2002) *op. cit.* p. xv.

structure of the state, in organizing local and regional authorities, in property restitution and resource allocation.¹⁴ Moreover ethnic divisions influence party politics and in many cases give political basis for nationalist movements.

As Bugajski noted, the respective constitutions “have singled out the majority ethnic group as the state-forming nation, with attendant privileges, whereas all other ethnicities are considered minorities and invariably confront discrimination”, and in Bugajski’s view “proclaimed the dominant ethnic group’s symbolic ownership of the state”.¹⁵ This exclusivist approach does not only define the character of the state (anthem, national flags, state language, etc.) but may also limit the spheres of democratic discussion on the constitutional structure of the state. Bugajski mentions Macedonia, Romania and Slovakia as unitary states, where even the idea of federalism raises suspicion and those who voice their political goals in a federalist transformation of the state are immediately accused by calling to separatism.

Ethnic dominance can be observed also in electoral systems based on proportional representation. Though in the case of the region’s sizeable minorities, capable mobilizing sufficient electoral support to overpass the established (usually high) threshold, the presence of minority representatives in the parliaments of most post-communist states has a mere decorative role, which does not allow a more substantial incorporating of the ethnic minorities’ interests in the political agenda.

Bugajski offers a categorization for both majority parties (independence-focused formations; moderate or democratic nationalists; conservative nationalists; socialist-nationalist formations; neofascist formations) and for minority political movements as well. He identifies these latter political formations as mobilizing on identity-basis, with the common feature of “focus on issues of direct and often exclusive concern for a distinct segment of population”.¹⁶ Here again, Bugajski sets up five main categories, which include a.) cultural revivalism, b.) political autonomism; c.) territorial self-determination; d.) separatism and e.) irredentism. Besides majority nationalist and minority ethnicist political movements, he also makes a point on regionalist parties, which are not necessarily based on ethnic belongingness, but more on a specific regional, territorial identity. Bugajski defines regionalist political formations that are a) based around a single, territorially compact ethnic group that seeks administrative or territorial autonomy within the state; b) multiethnic groupings which campaign for administrative devolution or regional self-governance; c) other regional movements which may involve political formations in different regions that seek broad decentralization from the state.¹⁷

This wide selection of ethnopolitical actors have had an impact on the path of democratization in CEE countries and Bugajski states that by and large “the emergence of a pluralistic political spectrum has been obstructed in several Eastern European countries by nationalist, ethnic and regionalist politics.”¹⁸

As a matter of fact for the moment being there are no signs of overcoming ethnic cleavages in the political systems of many CEE states: for instance the participation of minority ethnic parties in the governments of Slovakia, Romania or Bulgaria has been either a temporary constraint of election results or was solicited by the perspective of European integration. In these cases minority parties’ participation in the government could not bring a breakthrough in the accommodation of minority rights claims (e.g. in education, cultural or territorial autonomy, etc.).

¹⁴ See Salat *op. cit.* 16-17.

¹⁵ Bugajski (2002) *op. cit.* p. xxxv.

¹⁶ *Ibid.* p. li.

¹⁷ *Op.cit.* p. lii-liii.

¹⁸ *Op.cit.* p. xli.

Even though, Salat rightly notes that there is a need for innovation in tackling ethnic diversity in CEE democracies.¹⁹ As it will be seen also below, the international actors recurrently formulate their recommendations in the context of the duality of civic vs. ethnic nationalism or in the terms of multicultural democracy, which in practice are not applicable in CEE. Civic loyalties cannot replace ethnic loyalties if both ethnic minorities and ethnic majorities in these states identify themselves along their national identities. In a similar way, the term “multicultural democracy” is primarily applied in Western European states where this model was aimed at integrating large immigrant communities. But this model is not likely to be applicable in societies where the coexistence of ethnic communities is historically determined.

3. Alternative models of democracy in multiethnic societies

There are a number of different models for accommodating diversity (e.g. consociational democracy, multicultural democracy, etc.),²⁰ for the sake of brevity here I would like to highlight only two theoretical perspectives: building on the work of Sammy Smooha one is ethnic democracy, while an alternative is offered by Kymlicka, on the idea of multinational liberal democracy.

The picture described by Smooha²¹ in a model of ethnic democracy resembles probably the most to the political reality in some Central and Eastern European states. According to Smooha, the distinctive characteristics of ethnic democracy are the following: a) ethnic nationalism installs a dominant nation in the state; b) the state separates membership in the dominant nation from citizenship, c) the state is owned and ruled by the dominant nation, and the state mobilizes this majority nation d) non-dominant groups are granted incomplete individual and collective rights; e) the state allows non-dominant groups to participate in parliamentary struggle for power f) non-dominant groups are conceived as posing threats to the survival and integrity of the majority nation. As Smooha describes briefly this model: *“Ethnic democracy is a democratic political system that combines the extension of civil and political rights to permanent residents who wish to be citizens with the bestowal of a favoured status on the majority group. This is democracy that contains the non-democratic institutionalization of dominance of one ethnic group. The founding rule of this regime is an inherent contradiction between two principles—civil and political rights for all and structural subordination of the minority to the majority. The ‘democratic principle’ provides equality between all citizens and members of society, while the ‘ethnic principle’ establishes explicit ethnic inequality, preference and dominance. The organization of the state on the basis of this structural incompatibility constantly generates ambiguities, contradictions, tensions and conflicts, but not necessarily ethnic and political instability. The state belongs to the majority, not to all of its citizens, and the majority uses the state as a means to advance its national interests and goals. The minority encounters the hard problem of potential disloyalty to the state because it can neither be fully equal in nor fully identified with the state. Yet the democratic framework is real, not a façade. The conferral of citizenship on the minority enables it to conduct an intense struggle for fulfilling its rights and for improving its situation without fearing repression on the part of the state and majority. The state imposes various controls and restrictions on the minority in order to prevent subversion,*

¹⁹ Salat *op. cit.* 22-25.

²⁰ See for a brief overview: Salat *op. cit.*

²¹ Smooha, Sammy (2005) A Model of Ethnic Democracy in: Smooha and Järve (eds.) *The Fate of Ethnic Democracy in Post-Communist Europe*. Budapest: LIGI/ECMI. pp. 5-59.

disorder and instability. As a result, the status quo is preserved, but over time the minority experiences a partial betterment of its status."²² As a matter of fact ethnic democracy meets the minimal definition of democracy, but it lacks the major Western civic values of a tolerant, multicultural democracy.

From a very different perspective, Will Kymlicka, based on his extensive research²³ revealed the deficiencies of classic theories on liberal democracy which usually portray democratic states as neutral political structures, in which the state remains neutral towards the religious, ethnic or national identity of its citizens. As a matter of fact Kymlicka calls our attention on three important features which may guarantee the success of liberal democracies. First, liberal democracy can be successful in ethnoculturally homogenous societies. Second, there may be a need for special group rights in situations where homogeneity is not provided. And third, institutionalized group rights can be easily accommodated in the theoretical framework of the equality between citizens and can offer a pragmatic response to particular needs.

In state practices in CEE states we can find various practices and in many cases democratic institutions are still developing. These states have to take a clear path which democratic model can serve the best the accommodation of ethnic diversity in post-communist societies. Despite the progress these states made in European integration, their democratic structures are still vulnerable to ethnic exclusion, authoritarian developments and the oppression of minorities. As it will be seen also below, European integration has also a strong impact on political developments in CEE region.

II. Setting the scene – democratic transition, minorities and international environment

The fall of communism offered a new perspective for international co-operation in Europe. After the collapse of Soviet rule, ideological boundaries disappeared in Europe and the relations between the former communist countries and Western states could start to develop rapidly in a new context. Primarily as a reaction to the radical changes in Eastern Europe, various authors, – such as Fukuyama²⁴ – prognosticated the “end of history” and the global victory of liberal democracy. In this respect, the emergence of a new, larger community of European states sharing the principles of democracy and the protection of human rights was indeed often seen as the dawn of a ‘New Europe,’ to quote one of the first international documents to welcome the landslide political transformation in Eastern Europe.²⁵

But at the same time experience has proved, that along with the democratic transition other, less-expected developments also emerged and posed new challenges to the rising international system of co-operation in Europe.

1. The question of minorities in the ‘New Europe’

The fact that in CEE the national minorities of the transition countries are relatively large in number and are often concentrated territorially raised concerns, as ethnic division in transition

²² *Op. cit.* pp. 21-22.

²³ See Kymlicka, Will (1995) *Multicultural Citizenship*, Oxford: Oxford University Press.

²⁴ Fukuyama, Francis (1992) *The end of history and the last man*. London: Penguin Books.

²⁵ CSCE Charter of Paris for a ‘New Europe’, adopted in Paris on 21 November 1990.

societies was seen as a potential basis for political mobilisation, and thus also as a determining factor in the path and domestic institutional development of political transition.

Accordingly Western states had strong fears that political transition in CEE could get out of control if ethnic-based nationalism were to gain pre-eminence. Experience showed that political tensions, and in extreme cases violent conflicts along ethnic lines in the region, could pose serious threats not only to national political stability, but also to regional security and therefore these received a great deal of attention from the wider international community.²⁶

In this regard, primarily in an effort to prevent conflict, significant interest emerged concerning the situation of minorities and the codification and promotion of their specific rights both at the national and international levels.

This particular interest was also reflected in the substantial rise in the number of international political and legal instruments adopted in the 1990s, addressing the question of the protection of minority rights.²⁷

Deep concerns regarding the great potential for ethnic conflict in the CEE region, particularly in the light of the dissolution of the former Yugoslavia (i.e. SFRY)²⁸ and the Soviet Union along ethnic lines, made it a priority to establish appropriate international instruments designed to keep minority-related political developments under external control and to provide adequate political mechanisms to prevent the escalation of ethnic conflicts.²⁹ The dominant view shared by the international community regarding minority-related issues in the CEE underpinned the powerful theoretical argument that there is a positive correlation between international security and the extension of liberal values through democratisation,³⁰ so the promotion of liberal democracy was closely related to the improvement of the situation of minorities and to the reinforcement of internal and international stability.³¹

1.1. Division between East and West – is it real?

²⁶ On the role of ethnic conflicts in international relations see Gurr, Ted and Harff, Barbara (1995), *Minorities at Risk: a global view of ethnopolitical conflicts*. Washington D.C.: U.S. Institute of Peace and Gurr, Ted (2000), *Peoples versus States: minorities at risk in the new century*. Washington D.C.: U.S. Institute of Peace.

²⁷ Here I use the term “minority rights” in the broad sense, referring not only to rights enshrined in legal documents, but also to governmental policies and international actions aimed at recognising and accommodating the distinctive identities and needs of ethnocultural groups.

²⁸ The Socialist Federal Republic of Yugoslavia, the official name of the country until 1991.

²⁹ Munuera, Gabriel (1994) *Preventing Armed Conflict in Europe: Lessons from Recent Experience*. Paris: Chaillot Paper 15/16 (Western European Union Institute for Security Studies).

³⁰ See e.g. Herring, Eric (1997) ‘International security and democratisation in Eastern Europe’ in: Pridham, G. – Herring, E. – Sanford, G. (eds.) *Building Democracy? The International Dimension of Democratisation in Eastern Europe*. London: Leicester University Press.

³¹ As the European states declared their commitments in this regard in the 1990 CSCE Charter of Paris for a New Europe: “*We reaffirm our deep conviction that friendly relations among our peoples, as well as peace, justice, stability and democracy, require that the ethnic, cultural, linguistic and religious identity of national minorities be protected and conditions for the promotion of that identity be created. We declare that questions related to national minorities can only be satisfactorily resolved in a democratic political framework.*” In a similar way, the Council of Europe Framework Convention for the Protection of National Minorities stressed the same concern related to the close interdependence between democratic governance and minority protection in its Preamble under paragraph 6. “*Considering that a pluralist and genuinely democratic society should not only respect the ethnic, cultural, linguistic and religious identity of each person belonging to a national minority, but also create appropriate conditions enabling them to express, preserve and develop this identity.*”

Nonetheless minority issues are surely not region-specific: politically active minorities are also present in Western European states and violent inter-ethnic conflicts are also familiar to many 'old' member states of the European Union (see e.g. Welsh and Scottish claims in Great Britain or the violent conflicts in the Basque Country in Spain). However in academia and among policy-makers there is a widely shared ideological assertion that transitional societies of CEE for both political and deeper historical reasons are more inclined to ethnic conflict than Western states and serious efforts are needed on their behalf to reach 'Western civic' standards of inter-ethnic co-existence.³² Although dual (East-West just like 'civic' vs. 'ethnic' nationalism) approaches to identity-based politics are strongly disputed in literature,³³ this approach can be seen as characteristic of European international organisations in the 1990s.

International documents that have been adopted relating to the protection of minorities have been formulated in a universal language, but in practice the activity of the international organisations in Europe on minority questions has been primarily focused on the CEE region.³⁴ Nonetheless, the paradox that in the extension of European integration, the promotion of minority rights was in the first place focused on CEE states, while the situation of minorities remained largely neglected in Western Europe was also criticised.³⁵

The main presumption among Western politicians has been that there is a particular need to disseminate established civic and liberal political norms in CEE through support for political transition and democracy. Civil-rights norms as identified in the Western political tradition are based on strong civic loyalty to the state, the stability of democratic institutions and the respect for and protection of human rights and fundamental freedoms, which may include the rights of minorities as well (or, as it is usually formulated, the rights of persons belonging to minorities).

Nevertheless, the question of whether such a policy export could, or can, indeed be real remains largely unanswered. Observing the existing differences in the implementation and especially in the interpretation of minority rights standards in individual states all over Europe, the problem of propagating minority protection standards seems to be especially relevant.³⁶ What may work well in one country may not necessarily be adaptable to another due to varying institutional and political traditions and differences in the situation of single minority communities, which clearly determine the measures needed for their survival and protection.

³² See e.g. Ignatieff, Michael (1993) *Blood and Belonging: Journeys into the New Nationalism*. New York: Farrar, Strauss and Giroux.

³³ See Breuning, M. and Ishiyama J. T. (1998), *Ethnopolitics in the New Europe*. Boulder: Lynne Rienner. X. and Couture, Jocelyne (1998) (ed.) *Rethinking Nationalism*. Calgary: University of Calgary Press. 1-65. respectively.

³⁴ This region-specific approach can be illustrated well by the actions of the OSCE High Commissioner on National Minorities: although the mandate of the High Commissioner does not include a territorial limitation of its authority, during the past ten years the country-specific recommendations issued by the High Commissioner were exclusively related to minorities living in CEE region. See: <http://www.osce.org/hcnm/documents.html?lsi=true&limit=10&grp=44> Last accessed on 12 January 2007.

³⁵ Burgess, Adam (1999) 'Critical reflections on the return of national minority rights regulation to East/West European affairs' in: Cordell, K. (ed.) *Ethnicity and Democratization in the New Europe*. London and New York: Routledge. pp. 49-60.

³⁶ Kymlicka W. and Opalski, M. (2001) (eds.) *Can Liberal Pluralism Be Exported? Western political theory and ethnic relations in Eastern Europe*. Oxford: Oxford University Press.

International organisations have made the protection of minority rights a strong priority in their political strategy towards CEE and have played a prominent role in coordinating co-operation on minority issues at an international level. Despite existing problems related to the accommodation of minority claims in individual countries, the protection of minority rights has become a legitimate field of international co-operation in Europe.

International measures adopted after 1989 under the aegis of the Organisation for Security and Co-operation in Europe (OSCE)³⁷ and the Council of Europe (CoE), in particular the Framework Convention for the Protection of National Minorities (FCNM) and the European Charter for Regional or Minority Languages³⁸ (hereafter also referred to as the Language Charter), in a European context reinforced the acknowledgement of minority rights protection as an integral part of the universal protection of human rights.³⁹

As Eide explains:

“There has in recent decades been a slow, but necessary process to find the appropriate balance between the legitimate concerns of the state and those of the minorities. Three guiding principles for that balancing act has been the following:

** firstly, that the minority protection shall fully conform to the human rights system as constituted by the Universal Declaration of Human Rights,*

** secondly, those minority rights cannot be used as a pretext for secession, for breaking up the territorial integrity of the state. The right of peoples to self-determination, whenever it is applicable, cannot be based on minority rights,*

** thirdly, that the existence of the national, ethnic and religious groups shall be respected, and conditions for the preservation a development of that identity shall be ensured.”⁴⁰*

These assumptions are visibly reflected in international documents⁴¹ nevertheless, largely because of the above mentioned political fears of states related to offering specific rights to minorities which could lead to unwanted political developments (like claims for secession), the legal and political framework in which minority rights have been formulated is rather fragile. Relevant international commitments appear either in legally non-binding political declarations or in

³⁷ Before 1994, the Conference for Security and Co-operation in Europe (CSCE). Particularly relevant in relation to this are the 1990 Copenhagen Document on “Human Dimension”, the 1990 Charter of Paris for a New Europe, the 1992 Helsinki Document or the 1999 Charter for European Security, Istanbul.

³⁸ The CoE Language Charter was adopted in 1992 and entered into force on 1 March 1998. E.T.S. 148. The Framework Convention was adopted in 1995, entered into force on 1 February 1998. E.T.S. No. 157. Cf.: Blair 1994; Estébanez and Gál 1999. Specific areas of this international minority protection system also included the bilateral treaties agreed upon in CEE in the 1990s. See Gál 1999.

³⁹ At the universal level the same principle has already been acknowledged by the inclusion of Art. 27 in the International Covenant on Civil and Political Rights, and by the adoption of the U.N. General Assembly Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, G.A. res. 47/135, 47 U.N. GAOR Supp. (No. 49) at 210, U.N. Doc. A/47/49 (1992).

⁴⁰ Eide, Asbjorn, ‘Minorities in a Decentralised Environment’ paper presented at the International Conference on Human Rights “*All Human Rights for All*” in Yalta, 2-4 September 1998.

⁴¹ As, for example, the Framework Convention for the Protection of National Minorities declares under Art. 1: “*The protection of national minorities and of the rights and freedoms of persons belonging to those minorities forms an integral part of the international protection of human rights, and as such falls within the scope of international co-operation.*” And at the same time reaffirms that “*Nothing in the present framework Convention shall be interpreted as implying any right to engage in any activity or perform any act contrary to the fundamental principles of international law and in particular of the sovereign equality, territorial integrity and political independence of States.*”(Art. 21)

carefully formulated soft-law norms in multilateral and bilateral treaties, which leave a large margin of discretion to the signatory states in connection with the implementation of their ensuing obligations.

Consequently, the divergent practices of European states on the treatment of minorities are a good reflection of the lack of a unanimous consensus on the *interpretation* of minority rights protection standards.⁴²

Uneasiness towards identifying the specific rights which should be granted to minorities, in concrete terms, was reflected not only in the international documents adopted on the protection of minorities, but also in the political articulation of minority issues in the international realm. The pre-eminent position of security concerns often impeded the consistent and relentless promotion of minority rights protection through international measures. This was specifically the case in the formulation of minority rights protection standards vis-à-vis CEE states in the framework of European integration.⁴³

1.2. CEE and European integration – extending co-operation in international organisations

The increasing attention given to the situation and legal protection of minorities at an international level has also entailed that questions related to minorities are more strongly articulated within the broadening process of European integration in the 1990s. The institutional expansion of the Western international organisational regime to CEE offered a new perspective for international co-operation in this field: international organisations that were apparently indifferent or weak in addressing the problems related to the accommodation of national and ethnic diversity within their member states before 1989, turned out to be surprisingly active in taking minority issues to the floor in their relations with the new democracies in CEE. As a result, the propagation of minority rights protection, as a ‘pan-European’ standard has become an integral element of their political profile, at least in their external relations. What could be seen as a novelty was not the extension of a consistent legal regime of minority rights, but the fact that the *concept* of the protection of minorities was increasingly articulated as a basic element of the ‘ideal’ of liberal democratic governance within the European framework of institutional integration of CEE states. However, while within European organisations the lack of clarity regarding the basic standards in the treatment of minorities was not a crucial problem for Western European countries, it has become a difficult and intrinsic quandary for CEE states in their accession to the same international organisations.⁴⁴

⁴² As the European Court of Human Rights stated in one of its famous judgements, *Chapman vs. United Kingdom*, No. 27238/95. para. 93-94. “*The Court observes that there may be said to be an emerging international consensus amongst the Contracting States of the Council of Europe recognising the special needs of minorities and an obligation to protect their security, identity and lifestyle [...] However, the Court is not persuaded that the consensus is sufficiently concrete for it to derive any guidance as to the conduct or standards which Contracting States consider desirable in any particular situation.*”

⁴³ The term ‘European integration’ is intended here as the institutional integration of CEE states into European international organisations, especially the Council of Europe, the North Atlantic Treaty Organisation and the European Union.

⁴⁴ Cf. Kymlicka and Opalski, *op. cit.* pp. 47-84.

In the 1990s the idea of ‘recreating Europe’⁴⁵ became a strong driving force in the development of international relations within Europe. The rapprochement between ‘East’ and ‘West’ was in fact in many fields institutionally channelled through the existing economic, security and political organisational structures of Western Europe. The extension of the institutional framework in this manner was not limited to a territorial or geographic expansion, but also implied an ideological assimilation of external states into the values that these international organisations represent. Furthermore, as institutional relations between CEE and the West were extended after 1989, the articulation of common ideological standards was also recurrently reinforced in different international forums, based on earlier precedents,⁴⁶ including respect for minorities. Indeed ever since then, despite the differences in their founding goals and their different missions, concerns about the protection of human rights and the situation of minorities have been more strongly present in the activities of the OSCE, the Council of Europe and even in external policy of the European Union (EU).⁴⁷

1.3. “Exporting democracy” and institutional integration

The reinforcement of arguments on minority rights protection at the international level regarding CEE states was obviously part of a broader process of “ideological export” from the West to the new Eastern democracies. Political transition after 1989 in CEE and the new democratic ‘institutional architecture’⁴⁸ adopted by CEE states emerged largely as the outcome of domestic political forces, but the establishment of democratic governance and the protection of human rights clearly reflected ‘Western’ templates.⁴⁹

Furthermore, democratic transition and European integration have become closely interrelated processes for most post-communist countries.⁵⁰ In the implementation and stability of the new democratic institutions the membership/partnership policy of European international organisations also played an important role. In this way the rise of ethnic-based politics as a characteristic of political transition in CEE, and the protection of minorities as a desirable panacea and especially as a basic principle of democratic political ideals, have also been raised as key issues in the process of integration.

⁴⁵ Mayhew, Alan (1998) *Recreating Europe: The European Union’s Policy towards Central and Eastern Europe*. Cambridge: Cambridge University Press. and Emerson, Michael (1998) *Redrawing the Map of Europe*. London: Macmillan.

⁴⁶ See e.g. Art. 26 of the International Covenant on Civil and Political Rights (1966) and CSCE Helsinki Final Act 1 August 1975, *Declaration on Principles Guiding Relations between Participating States*, Title VII.

⁴⁷ The European Union gained its name only in 1992 (the Treaty on the European Union [hereafter referred to also as TEU] was adopted in Maastricht on 7 February 1992 and entered into force on 1 November 1993), but considering that the core-subject of the present study is the Eastern enlargement of the EU, i.e. it covers a period after 1992, its present name will generally be used to denote the institutions of European Union even when referring to previous periods of its existence.

⁴⁸ Whitefield, S. (1993) (ed.) *The New Institutional Architecture of Eastern Europe*. New York: St. Martin’s Press.

⁴⁹ Malova, Darina and Haughton, Timothy (2001) *Emergence and Divergence: Institutional Change in Central and Eastern Europe and the impact of Europe*. Florence: European University Institute. RSC WP 2001/45

⁵⁰ Zielonka, Jan and Pravda, Alex (eds.) (2001) *Democratic consolidation in Eastern Europe, Vol. 2: international and transnational factors*. Oxford: Oxford University Press.

Closer co-operation with CEE states clearly necessitated reinforcing political stability and security in these states, especially through the stability of democratic institutions and the protection of human rights. In this context, apparently the commitment of international organisations to improve democratic performance in CEE often required higher standards from CEE states than from Western incumbents, which in the field of minority rights protection was manifested in a striking way.

To achieve these goals, the community of Western states utilised a great variety of political and economic tools, from providing financial aid and launching economic and political co-operation programs, to employing political pressure and – in extreme cases when international security was threatened, as was the case in Yugoslavia – international sanctions or military force.

European states applied a complex strategy for strengthening democratic regimes in CEE, primarily within the institutional structure of international co-operation in Europe. Different international organisations applied rather different forms of political and economic pressure and incentives to support not only democratic transition, but also positive developments in minority rights policy in CEE.⁵¹

One of the most significant political tools applied by Western European states in this endeavour was their strategy related to the timing and conditions for the formal institutional integration of CEE countries into ‘Western’ international organisations. Extending partnership first and later offering membership to CEE countries in the Council of Europe, the North Atlantic Treaty Organisation (NATO) and the European Union was widely believed to be an effective strategy for reinforcing democracy and political stability in the region. Therefore the concern about strengthening the protection of minorities was notably present in the membership policy applied by these international organisations towards CEE states.

The CoE, the European Union and, in a less obvious but no less influential manner, NATO have all applied a policy of conditional admission in supporting domestic political reforms, and also emphasising the importance of good neighbourly relations, regional stability, and the protection of minorities.

In this regard, the prospect of membership in the CoE, the NATO and in the European Union has gained overwhelming importance and proved to be a powerful motivation for policy change in CEE countries.⁵²

⁵¹ The most significant steps in this regard were the establishment of the OSCE High Commissioner on National Minorities (HCNM) as a conflict-prevention mechanism, the 1995 Pact on Stability in Europe, and the EU-sponsored 1999 Stability Pact for South-Eastern Europe. External pressure in the field of minority protection was twofold: on one hand CEE states were expected to agree to international legal obligations on minority rights protection (by joining relevant multilateral treaties and also by concluding bilateral treaties that included the rights of minorities) and on the other hand there have been serious attempts by international institutions to encourage the implementation of special domestic policy programs for minorities.

⁵² Smith, Karen E. (2001) ‘Western actors and the promotion of democracy’, In *Democratic consolidation in Eastern Europe, Vol. 2: international and transnational factors*, ed. Zielonka J., Pravda A., Oxford: Oxford University Press, pp. 31-57.

1.4. The other side of the coin?

Domestic policy, foreign policy and European integration in CEE

For many countries in CEE, minority policy, foreign policy and European integration have become closely interrelated policy areas. The CoE, the OSCE and more recently the EU have followed domestic policy developments in CEE transition countries closely and progress towards integration was strongly linked to domestic and regional stability. Improvement in the situation of minorities was important both in domestic and external domains: ethnic-based conflicts could threaten internal stability and the treatment of minorities could also easily affect the external relations of the state, especially with the kin-states of the minorities concerned.

Historical sensitivity about the treatment of minorities in CEE countries often made neighbourly co-operation more difficult and made the reiteration of existing international minority rights norms in domestic legislation and in bilateral treaties necessary, in many cases under the auspices of international organisations.

In this regard the articulation of domestic minority policy, co-operation in neighbourly relations and progress in European integration have become three closely interrelated areas: the improvement of the situation of minorities in the domestic sphere together with a close co-operation between neighbouring (kin-)states on minority issues, could enhance better neighbourly relations, increase regional stability, gain international recognition and thus lead to better progress towards integration.⁵³

International minority rights standards developed in the last decade have offered a more-or-less comprehensive legal and political framework for positive developments in this field. The strengthening of international co-operation on the protection of minorities has not appeared merely to be a political move by European states, and therefore it has been a powerful basis for the international community to act in encouraging peaceful political transition in the CEE region, indeed on various occasions it proved an appropriate setting for the actors (international organisations, INGOs and NGOs, states and minorities alike) concerned to develop and strengthen their claims for extending the rights of minorities in individual countries.

Despite the divergent interpretations of minority rights protection in individual countries, at the international level there has indeed emerged a universal and European framework to rely on. Although there are still intense debates on the meaning of ambiguous terms within the field of minority rights, such as the definition of 'minority' or whether the minorities have collective rights or a right to self-determination (particularly relevant for minority claims for cultural and territorial autonomy), the most fundamental principles, such as the prohibition of discrimination or the recognition of states' responsibility in maintaining and preserving the national, cultural or linguistic identity of minorities are widely acknowledged.⁵⁴

From a different perspective, the same international framework offered a new background for minority claims as well. Politically active minorities have repeatedly formulated their requests in

⁵³ Malfliet, Katlijn (1999) 'Minorities in Central and Eastern Europe: the Link between Domestic Policy, Foreign Policy and European Integration' in: Malfliet, K. and Laenen, R. (eds.) *Minority Policy in Central and Eastern Europe: the Link between Domestic Policy, Foreign Policy and European Integration*. Leuven: Garant Publishers. pp. 1-33.

⁵⁴ Pentassuglia, Gaetano (2002) *Minorities in International Law*. Strasbourg: Council of Europe Publications. pp. 39-51.

reference to the existing international standards, and in this context it has also become an accepted practice that minorities appeal to international standards and turn to the international community whenever their rights are abused.⁵⁵

Certainly governmental policies towards minorities also largely react to the demands of minorities, and when these claims are formulated in a way that international actors (especially kin-states and international organisations) are likely to associate with minorities the pressure to improve their situation may become an important determining factor for state policies.⁵⁶ The triadic network – a model elaborated by Brubaker⁵⁷ – between the ‘nationalising state’, the ‘external homeland’ and the ‘national minority’ (to use his own terms) as interdependent actors in articulating their respective policies, reveals one aspect of the international factors determining minority or kin-state policies. But what’s more, in regard to the actions of CEE countries working towards European integration, there is a good reason to see a similar interdependence between foreign policy, domestic minority policy, and European integration.⁵⁸ This perspective offers a “quadratic”⁵⁹ relation, including international organisations among the actors involved in minority related policies as well.

In this respect, the interest of international organisations in the treatment of minorities has been significant. Their role in closely following and evaluating the practice of single states in the light of international standards has become very important for CEE countries both in their external relations and for their policies towards minorities living within their territory.

Nonetheless, despite the high prestige given to international minority rights protection measures in the region, the lack of a strong independent judicial or judicial-like institution in controlling the implementation of these standards has left monitoring and evaluation procedures largely vulnerable to political considerations. Due to this, political concerns regarding the situation of minorities formulated within the framework of extending institutional relations between CEE states and the Council of Europe, NATO, and the EU have gained greater prestige than the procedures established for the purpose of implementing international minority rights standards. Or in other words, the efficiency of these specific procedures and mechanisms many times depends greatly on their reinforcement by the institutional policies of CoE, NATO, and the EU towards CEE states. The activities of international organisations in this regard however are not strictly norm-guided, but appear to be driven by looser policy-driven mechanisms.⁶⁰

Furthermore, due to overlapping membership and close political co-operation between the major international organisations supporting democratic transition in CEE, minority issues have been raised in different forums, reflecting rather different attitudes. Despite this, the few supervising procedures upon which the international community could rely in evaluating the progress made

⁵⁵ Bíró, Gáspár (2000) ‘Minorities in International Relations’ in: K. Imbusch – K. Segbers (eds.), *The Globalization of Eastern Europe*. Hamburg: LIT. pp. 306-307.

⁵⁶ *Ibid.* pp. 315-320

⁵⁷ Brubaker, Rogers (1996), *Nationalism reframed: nationhood and the national question in the New Europe*. Cambridge: Cambridge University Press.

⁵⁸ Malfliet, *op. cit.* pp. 17-34.

⁵⁹ Smith, David J. (2002) ‘Framing the national question in Central and Eastern Europe: a quadratic nexus?’, *The Global Review of Ethnopolitics*, vol. 2 no. 1, 3-16.

⁶⁰ Pentassuglia, Gaetano (2002) *Minorities in International Law*. Strasbourg: Council of Europe Publications, pp. 39-44.

by individual countries on the treatment of minorities gained considerable prestige. Particularly relevant here are the monitoring mechanisms established to supervise the implementation of the FCNM and the Language Charter. The work of the OSCE High Commissioner on National Minorities (HCNM) similarly received great attention. But the relevance of their results in formulating domestic policies on minority issues was clearly unbalanced.

Incongruity between the aims targeted and policies adopted was apparent in the formulation of minority rights requirements in the membership policies of the Council of Europe, NATO and the EU. Whereas the basic goal of settling inter-ethnic disputes in CEE states and satisfactorily accommodating the claims of minorities living in the region was truly ambitious, the policy instruments adopted did not always live up to the goals set.

III. Conclusion

In general terms it can be concluded that despite the development of democratic political regimes in CEE the new structures could not effectively resolve ethnic tensions in these states. The internal development of democracy was and could not be scrutinized by international organisations in this regard, consequently the main emphasis was laid on the establishment of legal guarantees for the special civic rights of people belonging to minorities. European organisations however could not propagate a firm normative standard on minority rights, as the level of minority rights protection is closely attached to the traditional/exclusive or innovative/inclusive definition of nation and democracy in each state. Though democratic transition in CEE states followed Western patterns and European integration is based on common liberal democratic values of states, there are no general rules for the accommodation of ethnic diversity. This implies that while the theoretical, ideal interpretation of democracy would exclude national dominance and oppression, in practice in the democratic transition and European integration of post-communist states efforts in overcoming nationalist structures remained marginal in the development of democracy. This means that despite our general expectations towards democracy, the evolution of an effective model of multiethnic democracy is exclusively depending on domestic political developments.

Nevertheless, the accession of CEE states to the European Union may offer a new perspective in developing democratic institutions and governmental policies towards minorities. There are no specific legal standards or common policies on minority rights within the European Union, but through its main policies may help regional administrative decentralization in these states and may offer additional sources for civil organisations (including minority organisations). While these measures are not targeted at minority communities, basic principles of integration, like subsidiarity, tolerance towards diversity, decentralisation of financial sources, etc. may improve the well-being of minorities as well. What is important in this regard is that EU member states and EU institutions in evaluating the functioning of democratic institutions and the status of human rights in member states shall go further than observing formal institutions. What was started by recent initiatives within the EU in the field of human rights protection (e.g. the adoption of the Charter of Fundamental Rights, and especially the creation of a Fundamental Rights Agency) should be extended also to the protection of minority rights. Finding innovative democratic solutions for the accommodation of minority communities in CEE states is important, but creating a new level of guaranteeing the respect for and protection of ethnic diversity within the EU is equally important.

B) Eastern Europe and the Baltic States (Tallinn)

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Nations and minorities in the Western-NIS region

This region, from the Baltic Sea to the Black Sea, with its approximate population of 70 million, has been affected by all the specific features of Eastern European history: almost continuous wars of competing empires, frequent border changes and the ethnic and religious heterogeneity. As a result of all these, the clear national and ethnic dividing lines have disappeared long ago, if they ever existed. During the decades of the Soviet era, this situation was partly conserved and partly extended by some new processes.

The ethnic composition in the Western territories of the Soviet Union has been significantly modified, compared to the initial situation. Some of the changes were clearly the result of direct power interference. The artificial famine striking Ukraine in the Stalinist times, in 1932-33, had such an effect on the age composition of the Ukrainian society, that its effects can still be felt even today. This was followed by the deportation of the Crimean Tatars and the Volga Germans during the Second World War. Then happened the mass deportation of the Estonians, Latvians and Lithuanians to Siberia as revenge for their resistance during and after the war. In addition to these, though as a result of the interference of another power, namely the Nazi Germany, the native Jewish population of the region perished almost completely.

Some other processes were less planned. Most of the Russian-speaking population living in the Baltic States was settled there in connection with the forced industrialization and russification of the region. However, after the dissolution of the Soviet Union, most of them did not intend at all to repatriate, simply due to the fact that in the Baltic states the standards of living were much higher than in Russia. Something similar happened to the Red Army: after the collapse, ten thousands of soldiers decided not to join their units being redeployed to Russia, but left the army and tried to start a new life in their old place of dislocation, where most of them had their families and friends living, etc. This affected mostly the Baltic States, and – due to the comfortable climate – Moldova and the Crimea in Ukraine (the Russian Black Sea Fleet still stationed here is a serious source of problems.) In all three Baltic States there are a significant number of Ukrainians and Belarusians, though even the latter group is native only in Lithuania. To Estonia and Latvia, these people had originally immigrated as guest workers and after 1991 they did not return to their home country.

Instead of methodology

For studying the minority and demographic processes of the post-Soviet region, one has to keep in mind that the last census, which used the same standards at the same time for the whole territory of the Soviet Union, was conducted in 1989. Since then, the newly independent states conduct censuses in different times, with different questions using a diverse methodology, what makes it almost impossible to draw consequences which would be valid for the whole region.

It has to be noted as well that in many cases, one has to calculate with the 'flexibility of identities', which might distort the statistics. In the Soviet era, belonging to the ruling Russian elite meant kind of a privileged position. In many cases, the ethnic minorities preferred to declare themselves to be Russians, russified their family names, or while keeping their traditional family

names, they gave Russian surnames to their children. After the dissolution of the Soviet Union, the situation in many cases turned reverse, more and more people have 'discovered' their Belarusian, Ukrainian or Moldovan roots and many of those ones who were forced to russify their names, changed them back to the original form. In accord with this, many of those ones who in 1989 declared themselves to be Russians, in times of the later censuses rather registered themselves as Ukrainians, Moldovans or even Kazakhs.

In Belarus and Moldova, this happens mostly among the countryside population, while in Ukraine it is typical, especially for the Trans-Carpathia region, that the population answers 'local' to the question concerning their national identity. It also tends to happen that people are not able to make a clear distinction between the national identity and the mother tongue (this implies mostly to the perfectly bilingual strata of the Ukrainian and Moldovan population). However, this feature is not a symptom of being uneducated or lacking the necessary information. It is rather the consequence of the hard mixture of nations and languages in the given area, which sometimes makes people unable to define a single identity, as they feel themselves belonging to many communities at the same time.

Another specific feature, characterizing the census systems of all states of the region is that the Jews are considered to be a separate ethnic group, thus their number is separately handled. Most of the Jewish population registered in the 1989 census migrated to the region after the Second World War, as during the Holocaust almost all native Jews were killed and many survivors decided to emigrate first to Palestine, then to Israel.

The problem of the Russians living abroad

According to the 1989 census, more than 25 million people, declaring themselves to be Russians, lived in any of the 14 non-Russian republics of the Soviet Union. During the Soviet times, these Russians – despite their numerical minority – belonged everywhere to the most developed, mostly urban stratus of the population. Most of them worked in the industrial sector and the party elite was composed mainly of them. After the dissolution of the Soviet Union, their situation was radically changed as from their position of the ruling elite they unexpectedly became the weak minority. Protection of the Russians living outside the borders of the Russian Federation is one of the constant foreign policy priorities of Moscow, which affects the focus region of this study as well.

The following chart provides information concerning the number of Russians living on the territories of the newly independent states:

Country (before 1989 former Soviet republic)	Population [1000 people]		Rate of the population declaring themselves to be of Russia ethnicity compared to the overall population [%]		Number of people declaring themselves to be of Russian ethnicity [1000 people]	
	1989	2002 and after	1989	after 2002	1989	after 2002
Armenia	3326	2976	2	0,5	67	14
Azerbaijan	7092	7961	6	1,8	425	143
Belarus	10195	10293	13	11,4	1325	1173
Estonia	1573	1324	30	25,6	472	340
Georgia	5431	4661	6	1,5	326	69
Kazakhstan	16580	15233	38	30	6300	4569
Kyrgyzstan	4308	5213	21	12,5	905	652
Latvia	2678	2274	34	29,6	911	673
Lithuania	3695	3585	9	6,3	332	225
Moldova	4359	4466	13	5,8	567	259
Russian Federation (Soviet Union)	147400 (285743)	145649	82	79,8	120868	114029
Tajikistan	5182	7320	8	1,1	414	81
Turkmenistan	3572	5042	9	4,0	321	202
Ukraine	51578	46710	22	17,3	11347	8080
Uzbekistan	20094	27307	8	5,5	1608	1502

Russian population living in the former Soviet republics and in the successor states⁶¹

The Baltic States

The three Baltic States gained their independence in 1918 and lost it as a result of the Ribbentrop-Molotov pact signed in 1939. Estonia, Latvia and Lithuania were occupied by the Red Army in 1940 and were annexed to the Soviet Union. During the Second World War and the years following, the ethnic composition of the Baltic States was radically changed. The German population partly fled to the West, while the rest perished in 1944-45, most of the Jews were exterminated large number of Baltic people also escaped to the West, other were deported to the East.

As a result of a deliberate Moscow policy, hundreds of thousands of Russian-speaking workers and experts immigrated to the Baltic States in connection with the Socialist industrialization. Immigration affected particularly Estonia and Latvia, while in the less developed, at that time mostly agricultural Lithuania, it was not substantial. Moreover, important military bases were located in the Baltic countries and the soldiers serving there preferred to immigrate to these countries with all their families, due to the higher standards of living.

⁶¹ Source of data: the 1989 census and the CIA World Factbook. In all cases the chart contains the data (mostly census information) provided by the given country. All these data were gained between 2002 and 2006, though with certain differences, as the countries studied did not conduct their censuses at the same time. As a result of all these – in addition to the round-ups made in order to simplify the chart – the data published here is suitable only for informing the reader, but not for statistical purposes. This implies especially to countries of highly mixed ethnic composition, such as Belarus, Ukraine and Moldova.

Both the demographic and migration trends were unfavourable for Baltic people. According to the 1989 census, the rate of Latvians in their own republic was 52% (in Riga it was even lower, 36%), while the Estonians had a majority of 61% and the Lithuanians of 79%. Due to these trends, both among the Estonian and Latvian population, it became a widespread fear that the 'Russian invaders' might soon gain the majority, which would result in the loss of national characteristics of the republics. This attitude (or self-defense mechanism), is the main motivation behind the restrictive Estonian and Latvian minority policies starting after 1991.

While analyzing the statistics about the national-ethnic composition of the Baltic countries, it is worth to note that all three census systems obviously make an ethnically based distinction between the Russians, Ukrainians and Belarusians. However, from the perspective of the problems posed by the presence of the minorities, such as not knowing the state language, the lack of citizenship and their high rate compared to the majority group, they should to be handled together. Thus one has to make a distinction between the ethnic Russian (ethnic, language and cultural criteria) and Russian-speaking (only language and cultural criteria, but not ethnic) minorities.

One has to add that despite of the many times disadvantageous legal position of the minorities in the Baltics, in all three countries most of the business elite is Russian-speaking. Part of them had been members of the Communist nomenclature and managed to transform its political influence into business capital. Other utilized the investment climate of the early '90s, which was much more favorable than in Russia that time and together with Russian enterprises, established joint ventures which they registered in the Baltics. From the business point of view, the Kaliningrad region, which remained Russian territory even after the Baltic States regained their independence, is of key importance. The former military port has become an important logistical center, being one of the main transit points of the trade between Russia and the West.

Estonia

The law on citizenship, adopted in February 1992, basically reinstalled the old law on citizenship of 1938. Thus citizens got the same rights and obligations like they had before the Soviet occupation. Though in 1992 only those (descendants included) got the Estonian citizenship who have been citizens of Estonia before 16th June 1940 (the loss of independence). This resulted that 80.000 non-Estonians also got the citizenship, but all those ones who immigrated in the Soviet era did not. Those ones were explicitly excluded who were professional soldiers of the Red Army, who cooperated with the political police and who did not have a legal source of income.

Thus hundreds of thousands of Russian-speaking people were left without citizenship. The Estonian authorities started the naturalization process in March 1993. They introduced the so-called 2+1 system: one had to have a permanent place of living already two years before submitting the request and one year after it, in addition to prove one's knowledge of Estonian language. The law was modified in 1995, when the necessary length of having a permanent place of residence was extended to six years, one had to pass an exam on the Estonian constitution and had to make an oath of loyalty as well. According to another modification in 1998, the children of non-citizens born after 1992 automatically get the citizenship. Currently 3-4000 people gets citizenship every year, while between 1992 and 2002 altogether 117.000 people received it.

Nationality	1989		2000	
	Number	%	Number	%
	[1000 people]		[1000 people]	
Estonian	963	61,5	930	67,90
Russian	474	30,3	351	25,60
Ukrainian	48	3,1	29	2,10
Belarusian	27	1,8	17	1,20
Finnish	16	1	12	0,87
Other	36	2,3	30	2,10
Altogether	1565	100	1370	100

Ethnic composition of the population of Estonia

Most of the Russians (352 thousands) immigrated to Estonia in the Soviet era; however, some of them are natives of the region. The first ones arrived in the 17th century as refugees of the religious conflicts. They were followed by the personnel of the Tsarist administration (officials, doctors, etc.), and after 1917 many political refugees of the Bolshevik takeover came as well. Most of the Russians are urbanized, they either live in the capital (146 thousands, 37% of Riga's population) or in the two larger cities of the North-Eastern Ida-Viru county neighboring Russia (in Narva 68 thousands, 85%, in Kohtla-Järve 47 thousands, 68%). In addition to these, 16.000 Russians live in the second largest Estonian city, Tartu as well, giving 15% of the local population.

Most of the Ukrainians live in Tallinn (15 thousands) and in the cities of Ida-Viru county. Similarly to this, the Belarusians also live either in the capital, either in the North-East. From the smaller national minorities, one has to mention the Finns (12.000), the Tatars (3000), the Latvians (2000), the Poles (2000), the Jews (2000), the Lithuanians and the Germans (2-2000)

It is important to note that according to the Estonian legal system, only citizens can be considered minorities. Both the non-citizens and the stateless are officially immigrants. The non-citizens having a residence permit are allowed to vote on local elections but not on the national ones. They cannot be employed by the state administration and cannot join political parties.

The Russian language has equal rights in all those settlements, where the rate of the minorities exceeds 50%. This seemingly tolerant rule has entered to force nowhere in Estonia, as even in the North-Eastern territories, where the Russians are in clear majority, the rate of citizens hardly exceed one-third. Another important restriction was imposed by the electoral law, adopted in December 1998: only those could be elected either to national or local parliaments who were able to speak the state language, e.g. Estonian. After the OSCE protested against the law, another modification was made and the language-knowledge requirement was abolished.

The first political organizations orienting themselves towards the Russian-speaking population appeared in the early '90s. However, due to the slow naturalization process, these parties got only a small number of votes⁶², at least compared to the rate of the Russian-speaking population. In

⁶² In 1995 the *Our Home Estonia* party got 6%, which worthed 6 mandates in the parliament of 101 MPs.. In 1999 the United People's Party received 6,1%, thus again 6 seats.

the last years, the ethnic parties have almost completely lost their importance. On both recent parliamentary elections (2003, 2007), such a tendency became clearly visible that the Russian-speakers tend to vote for Estonian parties - they realized that these parties have a larger influence on the political life.

The attitude of the Russian-speaking population towards the Estonian majority has also changed since the transition. The initial antipathy, sometimes hatred have mostly transformed since the EU-accession.⁶³ The Russian-speaking youth and businessmen perceive the integration as being an opportunity, while elder generations expect Brussels to guarantee the minority rights. The 'Estonian economic miracle' (having the annual GDP growth regularly over 6%) has also a positive effect on the attitude of the Russian-speaking population, especially if they compare it with the situation of Russia.

Latvia

According to the law on citizenship adopted in 1991, those (and their descendants) received Latvian citizenship who had it before 17th June 1940 or were of Latvian nationality and those who had a permanent place of residence in Latvia and attended Latvian-speaking graduate or high school. Thus, in the early '90s approximately 72% of the population became Latvian citizens, while those having a permanent place of residence in Latvia but no citizenship of any other country, received a so-called alien's passport. (Until 1998 the old Soviet passports were valid as well.)

The new law on citizenship passed in 1993 was modified by the Parliament in 1994. The so-called *naturalization window* system was introduced, according to which the longer a person lived in Latvia, the longer he/she had to wait for the naturalization. As a result of the really strict requirements, only very few requests were submitted between 1994 and 1998. Due to the intense pressure coming both from Russian-speaking organizations in Latvia and from various international organizations (OSCE, etc.), the *window*-system was removed by a referendum held in October 1998. Since then, can apply for Latvian citizenship those who are older than 15 years, have a permanent place of residence for more then five years, have a legal source of income and passed the Latvian language and homeland studies exams.

Those who have an *alien's passport* cannot be employed by the state (education, administration, police, etc.), and cannot vote neither on the national, nor on the local elections. Until 2002, no one could be nominated for the elections without having a document testifying the knowledge of the Latvian language. This rule was later changed, however, at the same time Latvian was made to be the sole legal language of both the national and local administration.

Nationality	1989		2000	
	Number [1000 people]	%	Number [1000 people]	%
Latvian	1387	52,0	1370	57,7

⁶³ The April 2007 riots in Tallin, in connection with the removal of the 'Bronze Soldier' monument do not contradict this. A few thousand rioting young people do not characterize the attitude of the whole Russian-speaking population towards the Estonian majority – especially as after the first night the riots mostly turned into simple looting.

Russian	905	34,0	703	29,6
Belarusian	118	4,5	97,0	4,1
Ukrainian	92	3,5	63	2,7
Polish	60	2,3	59	2,5
Lithuanian	34	1,3	33	1,4
Jewish	23	0,9	11	0,45
Other	46	1,7	41	1,7
Altogether	2666	100	2377	100

Ethnic composition of the population of Latvia

Most Russians of Latvia live in the large cities. In the capital, Riga, their rate is 44% with the number of 336.000, and there are towns where they are in absolute majority (Daugapils: 55%, Rezekne 52%). In certain areas, such as in Riga and in the South-Eastern region Latgale, they live in such a density that most of them hardly speak any Latvian. However, as Latvian is the only official language, one cannot see a single streetname or official sign written in Russia, despite of the high rate of Russian-speaking minorities.

The Belarusians (97.000) are partly native people, living in the Latgale region bordering their homeland, while other groups of them immigrated in the Soviet era. In the highest numbers they live in the cities Kraslava (18%), Daugapils (9%) and in Riga (5%). Though most Belarusians do not speak their mother tongue anymore, some of them kept their ethnic identity. The ties connecting the Belarusian minority to Latvia are getting stronger and according to some expert opinions, they might once became a real national minority.

The Ukrainians (63.000) live quite dispersed all over the country. Many times they have a dual, Russian-Ukrainian identity and most of them live in the cities. (Approximately 4% of Riga's population is of Ukrainian nationality.) Their integration to the Latvian population is slow, hardly one-third of them has citizenship. Many Ukrainians are strongly in favour of developing the Russian-speaking education.

Most Polish people (60.000) live in the Latgale region, particularly in Daugapils (12%) and in Kraslava (7%). Despite of their small numbers, they are considered to be the most active national minority in Latvia. Being native inhabitants, they supported the independence of Latvia since the late '80s. Currently, they are loyal to the Latvian state and maintain close ties with their home country as well. In addition to them, there are the following smaller national minorities living in Latvia: Lithuanians (32.000), Jews (10.000), Gypsies (8000), Tatars (3000) and Estonians (2000).

In Latvia, a strong Russian ethnic political community was always present in the Parliament.⁶⁴ Currently, one has to consider the 'For Human Rights in the Unified Latvia' (the Latvian abbreviation is PCTVL, the Russian is ZaPCSEL) party formation to be the greatest and best organized, Russia-oriented political force, which formally worked in coalition with the Latvian Social Party and the Harmony for Latvia party. They achieved their greatest success in 2002, when they received almost 19% (worthing 25 mandates) in the parliamentary elections, thus

⁶⁴ In 1993 the 'Harmony for Latvia' received 13 mandates, in 1995 6 mandates, while in 1998 16 mandates in the Saeima of 100 people. In Latvia voters vote for party lists, the threshold is 5% since 1995.

became the second strongest party. However, due to personal conflicts, the coalition fell apart in 2003, as first the Harmony for Latvia stepped out and later the Socialist Party as well. These two parties had a common list in the 2006 elections under the name 'Harmony Alliance' and received 14% (17 mandates), while the ZaPCSEL almost did not pass the parliamentary threshold with 6% of the votes received.

It is highly typical of the Baltic States that the Russian ethnic parties are practically locked in a political quarantine and they are almost doomed to be always in opposition. Besides fully supporting the respect of minority rights of the Russian-speaking population (speeding up the naturalization process, development of the minority education, more rights being granted to the non-citizens), these parties are in favor of maintaining a good relationship with Russia – which makes the Latvian majority to think that these parties are directly financed and controlled by Moscow. In addition to all these, Russian parties promote a radical leftist economic programme, which brings them some Latvian votes as well. However, as approximately half of the Russian-speaking population does not have citizenship (thus they are not allowed to vote in the parliamentary elections), their parties cannot reach a parliamentary representation equal to the numerical rate of the Russian minorities.

Lithuania

From the point of view of minority policy, Lithuania is the less problematic one of the three Baltic States. When the Soviet Union collapsed, the rate of the Russian-speaking population was relatively low in Lithuania, thus Vilnius could quickly and smoothly settle the question of citizenship. According to the law adopted by the Lithuanian parliament already on 3rd November 1989, the so-called 'zero option' entered force. This meant that all of those who lived in Lithuania and had a permanent source of income received Lithuanian citizenship. Only the officers and employees of the Red Army and of the Soviet political police (the KGB) were exceptions, together with their families. The law was modified in December 1991 and certain restrictions were introduced. According to these, one needs to have a permanent place of residence in Lithuania for ten years, has to speak Lithuanian fluently and has to know the constitution – however, those (and their descendants), who had Lithuanian citizenship before 15th June 1940 received it automatically.

Nationality	1989		2001	
	Number [1000 people]	%	Number [1000 people]	%
Lithuanian	2924	81,6	2907	83,4
Russian	344	9,4	219	6,3
Polish	258	7,0	235	6,7
Belarusian	63	1,7	43	1,2
Ukrainian	45	1,2	22	0,6
Jewish	12	0,3	4	0,1
Other	24	0,8	20	0,5
Altogether	3391	100	3484	100

The Polish minority is a native one in Lithuania, Vilnius/Wilno had been one of the centers of the Polish culture for centuries. Between the two world wars the city and its surrounding belonged to Poland. As a result of these, most Polish people (235.000) live in Vilnius (105.000, 19%) and in the neighboring counties (Salcininkai 79%, Vilnius 61%, Trakai 33%, Svencionys 27%). Approximately 90% of the Poles living in Lithuania are concentrated in this region, the rest lives dispersed in other parts of the country.

The Russian minority (219.000) is composed mostly of people settled down here in the Soviet era. (Special attention has to be paid to the service personnel of the Ignalina nuclear power plant, who live in Visiaginas, thus 55% of the town's population is Russian.) In the early '90s, approximately 100.000 thousand Russians left Lithuania, most of them migrated back to Russia.

The Belarusian minority (43.000) lives also mostly in the cities, particularly in Vilnius (22.000 people, giving 4% of the overall population). Some other smaller minorities living in Lithuania have also to be mentioned: Ukrainians (22.000), Jews (4000), Germans (3000), Tatars (3000) Latvians (3000), Gypsies (3000) and Armenians (2000). The Karaites, being of Tatar origin are a special minority. In the historical times, the bodyguards unit of the Grand Duke was composed of them. Their descendants still live in Lithuania, mostly around the former center of the Lithuanian Grand Duchy, Trakai. Though they are only a few hundreds in number, they managed to keep their language and alphabet. The real curiosity of the Karaite minority is that due to their historically strong network of contacts, they are highly over-represented among the Lithuanian political and business elite – there was a time when two Lithuanian ambassadors were of Karaite origin.

The political representation of the Polish minority is conducted by the Electoral Action of Poles in Lithuania (in Polish 'Akcja Wyborcza Polaków na Litwie' AWLP; in Lithuania Lietuvos lenkų rinkimų akcija, ALRA). The party was established in 1994 and it is the political 'manifestation' of the social-cultural organization of the Polish minority, the Alliance of the Poles in Lithuania. Its program is composed of typical minority protection elements, such as the promotion of minority rights, the strengthening of the self-governance and the social and economic development of the Vilnius region. Even though the organization itself cannot exceed the 5% parliamentary threshold set for parties, 2-4 of its representatives always manage to get elected to MP from the regions neighboring Vilnius. On the local level, the AWLP cooperates with leftist, liberal Lithuanian parties.

From the complains of the Polish minority, one has to mention the rules set by the law on languages adopted in 1995. According to this, all names have to be transliterated to Lithuanian, using the Lithuanian grammar and the diacritic alphabet. (Thus the name of Polish national poet Adam Mickiewicz has to be written 'Adomas Mickievicius'). In the early '90s, the autonomy claims of the Polish minority were also a source of tension. The Lithuanian elite opposed the plan, referring both to historical and actual political reasons. However, the real motivation behind the decision was that the Lithuanian national identity has been built up partly against Poland. Moreover, the establishment of a Polish autonomy would have endangered the territorial integrity of the state, at least according to Lithuanian opinions.

There is no particular Russian ethnic minority party in Lithuania. Most of the local Russians support either the liberals or the post-Communists, who are less critical towards the Soviet past and seek a dialog with today's Russia.

Belarus

Unlike the Baltic States, settling the issue of citizenship was not problematic in Belarus, where the law on citizenship was adopted in October 1991 by the Supreme Soviet. According to it, here also the 'zero option' entered force: everyone got the citizenship who requested it and had a permanent place of residence in the country. The law on national minorities was passed on 11th November 1992 and the minorities were involved in the preparatory works of the document. Though the law is fully in accord with the relevant international norms, it is still not fully implemented, due to the specific political-economic system – being highly different from the European standards - existing in today's Belarus.

Another element of complication is that due to the specific nature of the development of the Belarusian national identity (a basically agricultural society without having a significant intelligentsia, being 'got stuck' between the two great neighboring nations, the Poles and the Russians and finally, the russification policy of the Soviet era), currently one cannot find a Belarusian majority of high self-esteem, using their mother tongue, knowing their own history. Moreover, until the recent years, the Lukashenko-regime had not been interested in developing the 'national' character of Belarus. Thus in a referendum organized in 1995, the voters accepted the Russian to be the second official language and the old Soviet-style state insignia (flag, coat of arms) were restored. Therefore for the Belarusian society, socialized mostly in the Soviet era, thus still having a basically paternalistic attitude, all claims and slogans based on the national identity have only a limited mobilizing power.

Nationality	1989		1999	
	Number [1000 people]	%	Number [1000 people]	%
Belarusian	7905	77,9	8159	81,2
Russian	1342	13,2	1,142	11,4
Polish	418	4,1	396	3,9
Ukrainian	291	2,9	237	2,4
Jewish	112	1,1	28	0,3
Other	82	0,8	80	0,8
Altogether	10150	100	10042	100

Ethnic composition of the population of Belarus

Analyzing only the results of the national census held in 1999, the Belarusians are in a clear majority in the whole country, except the Grodno region in the North-West. However, one has to add the information on language use.

Nationality	Number [1000 people]	The language, which is identical to one's national identity is declared to be the mother tongue [1000 people]	Language used in the family [1000 people]		
			Belarusian	Russian	Other
Belarusian	8159	6984	3373	4783	3
Russian	1142	1036	49	1093	0
Polish	396	65	228	149	19
Ukrainian	237	102	24	198	15
Jewish	28	1	2	26	0
Other	83	39	7	59	17
Altogether	10054	8227	3683	6308	17

The absolutely dominant role of the Russian language can clearly be seen from the chart. In everyday life, Belarusian language is used only by people living in the Western part of the country, in addition to that, part of the intelligentsia, which has national beliefs use it. With the Russian language having a higher prestige, the Belarusian is not in a competitive position. Therefore, kind of a 'reversed assimilation' took place: the local population adopted the language of the immigrants, coming from the 'elder brother' country.⁶⁵

However, one has to stress that in Belarus not a single ethnic or linguistic conflict took place in the last 16 years. The main reason behind this is that all over the region's history, on the territory of today's Belarus there has always been a very mixed (by ethnicity, by nationality and by language as well) population living. Therefore, inhabitants are 'used to' this colorful picture, for them this is considered to be natural. Moreover, the ownership of the territory has changed many times during the centuries passed, thus the self-definition of the population is based rather on a geographic, regional approach instead of a national one. Since 1991, the Belarusian political leadership – and especially the incumbent president, Alexandr Lukashenko - has pursued a policy being basically in line with this attitude. Therefore, they strengthened those elements in the identity of the population which were connected to the existence of an own, independent state, without giving a system-level answer to the question of nation and ethnicity. In this sense, Belarus is not a nation-state, and the Belarusians are not a state-forming nation but – due to the lack of ethnic tensions – this does not mean a problem at all.

The Poles (396.000) are the greatest national minority of the country. They are concentrated (294.000) in the Grodno region, bordering both Poland and Lithuania, while in other regions (Minsk, Brest, Vitebsk) they live dispersed. The main political organization of the Polish minority is the Alliance of Poles in Belarus (Zwiazek Polaków na Białorusi, ZPB), established in 1991, originally being a social-cultural organization. The ZBP considers it to be one of its main tasks the development of the Polish-speaking education, which had to be started from the very beginning in 1991 (the last Polish school was closed down in 1948.) In addition to this, the ZBP

⁶⁵ The weakness of the Belarusian language movement is clearly demonstrated by the fact that the first Belarusian journal, the 'Nasha Niva' was published only in 1905. The Belarusian language was considered to be a rather humble, rural one, which to a certain extent is still valid today. President Lukashenko tends to speak about the Belarusian language in a degrading way, stating that today there are only two important languages, English and Russian.

promotes the protection of the mother tongue, the respect of minority rights and tries to play the role of the mediator between Poland and Belarus.

The actions of the Belarusian authorities against the ZBP had a strong echo both in the Polish and in the international media in summer-autumn 1991. The issue⁶⁶ was pictured as an attack against the Polish minority itself. However, in reality the steps made against the ZBP - the authorities managed to utilize the internal divisions (personal dislikes, problems with the accounting, etc.) of the organization - were fully in accord with the general efforts of the regime to crush the independent civil society. The issue of the Polish minority living in Belarus became a priority topic of the dual elections (both parliamentary and presidential) in Poland in 2005.⁶⁷

The Ukrainians (237.000) are the fourth largest ethnic group living in Belarus. They are partly native people, who live in the regions neighboring Ukraine (Brest), while other group immigrated / were settled to Belarus in the Soviet era. Most native Jews (112.000 in 1989) left the country in the '90s. The ones who stayed (28.000), are largely of Russian mother tongue and culture (93%) and live in larger number only in Minsk (10.000).

A relatively high number of people originating from the Caucasus also live in Belarus. They immigrated in the last years of the Soviet era, partly through mixed marriages, though most of them arrived after 1988, due to the political and economic problems of the Caucasus (Azeri-Armenian war for Nagorno-Karabakh, Georgian-Abkhazian war, etc.) Most of the Caucasian minorities (Armenians: 10.000, Azeris: 6000, Georgians 3000) live in the larger cities of Belarus. Similarly to the Belarusian majority, a strong tendency of russification is visible among the Caucasian minorities as well, regardless of their diverse ethnic, cultural and religious background: in the family they typically⁶⁸ speak not their mother tongue, but Russian.

Ukraine

The law on national minorities passed in 1992 by the Supreme Soviet (council) stated that the minority languages can be used equally to the state language in all those state and social institutions, where the given national minority is in absolute majority compared to the whole population of the given settlement. The Ukrainian constitution, adopted in 1996, declared Ukrainian to be the state language, nonetheless it also granted the free use and development of both Russian and other smaller minority languages.⁶⁹

The first census since the independence was held on 5th December 2001. The results showed that, compared to 1989, the number of population declined by almost 3 million, from 51.542 thousands to 48.57 thousands. The significant changes in the ethnic composition of the country deserve special attention.

⁶⁶ The assembly – though in a not fully legal way – elected a leader, which was ready to cooperate with the regime. This led to the break-up of the organization.

⁶⁷ Currently there are two ZBPs operating parallelly and mutually not recognizing each other. One of them is recognized and supported by Poland, but it is not by the Belarusian authorities. The other one is vice versa.

⁶⁸ I case of the Armenians, the rate is 75%, the Azeris: 72%, while for the Georgians it is 82%.

⁶⁹ The Russia-oriented parties, having their support in Eastern-Ukraine (primarily the Party of Regions led by Prime Minister Viktor Yanukovich), keep demanding the recognition of Russian as a second official language. However, neither the core of the political elite, nor President Yushchenko are in favor of the idea, as it would mean serious difficulties for the Ukrainian language – in the Southern, South-Eastern regions even the limited, only official use of the current state language would be ceased.

Nationality	1989		2001	
	Number [1000 people]	%	Number [1000 people]	%
Ukrainian	37419	72,7	37542	77,8
Russian	11533	22,1	8334	17,3
Belarussian	444	0,9	275	0,6
Moldovan	324	0,6	258	0,5
Crimean Tatar	47	0,1	248	0,5
Bulgarian	233	0,5	204	0,4
Hungarian	163	0,3	156	0,3
Romanian	134	0,3	151	0,3
Polish	219	0,4	144	0,3
Jewish	486	0,9	103	0,2
Armenian	54	0,1	99	0,2
Greek	98	0,2	91	0,2
Tatar	86	0,2	73	0,2
Gipsy	47	0,1	47	0,1
German	37	0,1	33	0,1
Others	303	0,6	692	1,4
Altogether	51452	100	48457	100

Ethnic composition of the population of Ukraine

The ethnic situation of Ukraine is complicated by the interrelated problem of the language-issue. Many independent studies showed that currently there are three main large linguistic groups in Ukraine, being approximately of the same size: people having either Russian or Ukrainian as their mother tongue and the Russian-Ukrainian bilingual group. Another analysis shows that the higher the education background of a person is and the larger the city a person lives in is, the more probable it is that the given person uses Russian in everyday life. Due to the decades of russification, in the Eastern and South-Eastern regions (Kharkhov, Lugansk, Dniepropetrovsk), the Ukrainian language is present at a minimal scale only. It is dominant only in the Western regions (L'viv, Ivano-Frankivszk, Ternopil, Volyn), regarding both the big cities and the smaller settlements.

Moreover, according to a survey made in 1999, 77% of the population of Kyiv declared themselves being of Ukrainian nationality and 62% of Ukrainian mother tongue – but it turned out, that only 14% of them used Ukrainian in their families. However, in the recent years, the positions of the Ukrainian language became significantly stronger. The process was fuelled by the 'orange revolution' as well. On the long run, it is expected that a Russian-speaking Ukrainian culture will be born and it will co-exist with the Ukrainian-speaking culture.

As after 1989 no mass emigration – either of political or economic background – took place from Ukraine to Russia, the reasons behind the modified rates have to be found somewhere else. Namely that due to the differences among Russians and Ukrainians in terms of language, culture, religion and mentality, huge numbers of people, who declared themselves to be Russians in the Soviet era, ten years later already considered themselves to be Ukrainians. The ones affected by the ‘identity change’ live mostly in the Southern and South-Eastern regions and despite of the Ukrainian origins, they use Russian in everyday life.⁷⁰ The re-Ukrainization process is expected to become faster, particularly due to the spreading of Ukrainian-speaking education and to the changing attitude of the younger generations towards the Soviet past. Consequently, the loyalty towards the Ukrainian state is expected to increase as well, which is supposed to be visible also on the level of self-identification and of choosing the national identity.

Most of the Russians (8334.000) live in the Eastern and South-Eastern regions of Ukraine, in addition to Kyiv. Part of them immigrated in the Soviet era, others are descendants of the industrial workers settled here in the 19th century. However, some of those declare themselves to be Russians are russified Ukrainians. The third largest ethnic group of Ukraine are the Belarusians (275.000). Most of them became employed in Ukraine in 1960-1970 and reside mostly in urban areas, particularly in Doneck (44.000), Lugansk (22.000) and in the Crimea (29.000) Besides, in the regions neighbouring their home country, they are native inhabitants and live in the rural areas (Rivne: 11.000, Zhytomyr: 4000)

The Moldovans (258.000) live in the Western part of the Odessa region and in the Eastern part of the Chernivtsi region. The Romanians (151.000) are separately administered by the Ukrainian census system. Some of them (32.000) live in Trans-Carpathia, while the majority (115.000) resides in the Chernivtsi region, where they are native inhabitants. The center of the Romanian minority is Chernivtsi (Cernauti, Czernowitz) city.

The Bulgarians (204.000) live in the region bordered by the Dniester river, the Danube delta and by the Black Sea. Their ancestors fled from the territories that time belonging to the Ottoman empire in the 19th century. Nowadays, they reside in rural areas. The Hungarians (156.000) live mostly in the far-Western region of Trans-Carpathia, particularly in the area being 15-20 kilometres away from the Ukrainian-Hungarian border. Due to the geographic location and to the historical background (before 1918 the region belonged to Hungary, then to Czechoslovakia and from 1944 to the Soviet Union), the local Hungarians maintain strong contacts with their motherland. The center of the minority is Beregszász/Berehove city.

The Poles (144.000) live in the Western regions (Hmel’nitsky: 23.000, Zhytomyr: 49.000, L’viv 19.000). Due to the population exchange following the Second World War, most Poles (particularly the urban population) left Ukraine, thus today the Polish minority lives rather in the rural areas. The Jewish population (103.000) resides almost entirely in the large cities (Kyiv, Dnipropetrovsk, Odessa). Their number has been sharply decreased compared to the early ’90s, most of them (almost 300.000 people!) emigrated to Israel.

From the other minorities, one shall mention the Armenians (100.000), who immigrated either in the Soviet era or after 1991. The Greeks (91.000) live mostly in the Doneck-basin and they arrived there in the 18th century from the Crimean peninsula. Most Tatars (73.000) immigrated from Russia, from the Kazany region and live in the big cities of the Doneck industrial region.

⁷⁰ Two examples from current politics: both Leonid Kuchma, former President of Ukraine and Yuliya Tymoshenko, former Prime Minister started to learn and use Ukrainian only after they achieved a high political position.

The Gypsies live mostly in the Trans-Carpathian region, however, some experts estimate their official number of 47.000 to be much higher in reality. Descendants (33.000) of the formerly influential Germans, who were settled in Ukraine in the 17-19th century, live dispersed in the whole country, while a larger group of them resides in Trans-Carpathia.

The problem of the Crimea

The Autonomous Republic of the Crimea is a special region of Ukraine, both from the perspective of politics and ethnicity. The ownership of the territory of Crimea changed many times through its history. The Ancient Greek settlers were followed by the Romans, the Huns, the Goths, the Bulgarians, the Kazars. In the 10-11th century the region belonged to the Kyiv Rus, then – followed by a short Byzantine occupation – became part of the territory of the Golden Horde. After the Golden Horde was crushed by Timur Lenk in 1441, the Crimean Tatars, gradually immigrating since the early middle ages and already forming the majority of the region at that time, have established their own state, the Crimean Khanate. Though it became subdued to the Ottoman Empire in the 15th century, Crimea always had a relatively wide autonomy. With the Kuchuk-Kaynardzha peace treaty signed in 1774, Crimea became a zone of Russian influence and was finally annexed to the Russian Empire in 1783.

After the end of the Russian civil war, the Crimean Autonomous Soviet Socialist Republic was established, which was subordinated to the Russian Soviet Federative Socialist Republic (SFSR). The Stalinist terror in the '30s affected not only the Crimean Tatars, but the Greek community as well, which were also considered to be 'illoyal', though they had lived in the Crimea since the times of Byzantium. In 1941, Crimea was invaded by the Third Reich. The Tatars joined the German forces in a relatively high number, thus a few independent auxiliary units were organized of them. After the Red Army re-conquered Crimea in 1944, the entire Tatar population was deported to Central-Asia in three days (!), 18-21st May 1944, in revenge of their 'collaboration with the Nazis.' Though the survivors were rehabilitated in 1967, they were officially not allowed to return to their homeland until the end of the Soviet era. In 1954, the Crimean *oblast* (region) became subordinated to the Ukrainian SFSR instead of the previous Russian control. Due to its moderate climate, Crimea was a popular holiday resort, which resulted in the intense immigration of Russians, mostly factory workers, pensioners and the service personnel of the Black Sea Fleet. Consequently, the rate of the Russian population compared to the Ukrainians kept increasing.

Following the independence of Ukraine, Crimea – after a short-lived option of independence – received a wide autonomy inside the country. The Autonomous Republic of the Crimea is a parliamentary republic, the president is elected by the parliament of 100 MPs, with the consent of the President of Ukraine. Paralelly exists the elected representative body of the Crimean Tatars, the so-called *Mejlis*, which has the right to address either the Crimean or the Ukrainian parliament.

From the perspective of minority policy, the real curiosity of Crimea is that the rates of the three main ethnic groups are in a continuous, dynamic change. Moreover, the gap between ethnicity and mother tongue is quite wide. According to the Ukrainian census conducted in 2001, the ethnic composition of the Crimea is the following:

Ethnic group	Number [1000 people]	Rate to the entire population of the Crimea [%]
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Russian	1185,6	58,32
Ukrainian	494,4	24,32
Crimean Tatar	245,9	12,10
Belarusian	29,2	1,44
Tatar	11,0	0,54
Armenian	8,7	0,43
Others	57,9	2,85
Altogether:	2033	100

Ethnic composition of the Autonomous Republic of the Crimea

Besides these large ethnic groups, there are Black Sea Germans, Gypsies, Bulgarians, Poles, Azeris, Koreans and Greeks living in small numbers in Crimea.

Though the territorial status of Crimea was settled by the relevant international and domestic treaties, from time to time (especially in the recent 2-3 years) the voices demanding the joining of Crimea to Russia become stronger. The main problem is that the Russian and Russian-speaking population achieved a dominant numerical majority in the region. According to the mentioned census, 77% of the population declared Russian to be their mother tongue, 11,4% mentioned the Crimean Tatar language and only 10,1% Ukrainian. The seriousness of the situation is well illustrated by the fact that though in Ukraine the Ukrainian language is the only official one, in Crimea the language of administration is Russian and the state language is used only in a few Ukrainian schools..

Military presence is an important element of the Russian dominance. According to the 1997 Treaty on Friendship Between Russia and Ukraine, the Russian Black Sea Fleet was granted the use of the Crimean naval bases for 20 years, until 2017. In addition to this, thousands of sailors and officers are discharged from the fleet every year and most of them prefer to reside in Crimea, thus increasing the number of the Russian population with militarily trained, capable-or-war people. The property-acquisition actions of the different Russian companies and individuals are also significant. As a result of all these, the Crimean parliament is dominated by Russia-oriented parties.

The Crimean Tatars are another source of instability. Since the dissolution of the Soviet Union, they keep migrating back to their former places of residence. However, the fate of the lands confiscated from them in times of the deportation is not settled. There was no compensation, and most of their former properties are already owned by individuals. One of the most important political objectives of the Crimean Tatar political forces is to regain their former lands – besides the respect of traditions the flourishing tourism business is also among the motivations. Moreover, according to the expert opinions, the real number of the Crimean Tatars exceeds the official data at least one and a half times. The 'surplus' population lives illegally in Ukraine, but the tribal system of the Tatar society – utilizing the weaknesses of the local state administration – manages to conceal their presence.

Moldova

During all its history, Moldova (formerly Bessarabia) has always been a territory of mixed population, both by ethnicity and language, though with the constant majority of the Romanian (-Moldovan) people. Besides the large numbers of Russians and Ukrainians, there have been Gagauz people of Turkish origins, Bulgarians, Jews speaking Russian and Yiddish and many, ethnically-linguistically mixed Gypsy groups living in Moldova as well.

During the last years of the Soviet Union, the question of citizenship was not problematic in Moldova at all. According to the relevant law adopted in 1990, citizenship was granted to everyone who requested it, and had a permanent place of residence in the republic. Dual citizenship was also allowed on the basis of bilateral agreements. More important was the issue of the state language. The Moldovan Parliament declared Romanian to be the second official language of Moldova (besides Russian) in 31st August 1989. This resulted in the protests of the non-Moldovan population, who were afraid that this was the first step on the road leading to Moldova's accession to Romania.

Currently the most important element of the political-social situation of Moldova is the existence of the separatist region of the 'Dniestr Moldovan Republic', on its more known name 'Transnistria.'⁷¹ The region, being on the Eastern banks of River Dniestr broke away from Moldova during the collapse of the Soviet Union, with the strong political and military support of Russia. The situation was not changed by the three months of the Moldovan civil war in 1992. Following the intervention of the Russian (former Soviet) 14th Army led by General Lebed, the conflict was finished with signing a Russian-dominated ceasefire agreement. The document legitimized the de facto separation of Transnistria – even though not a single state has recognized the 'independence' of the separatist 'republic' (being in reality a highly centralized, presidential dictatorship.)

Ethnic elements have only a very limited role to play in the Transnistria conflict. In times of the separation process, the fear of the possible consequences of Moldova joining Romania was quite strong among the local population (composed of approximately 40% sovietized ethnic Moldovans, 28% Russian-speaking Ukrainians and 25% Russians in addition to some smaller groups). However, the conflict itself is basically a political – and to a smaller extent an economic – one. Transnistria as a 'state' can function only with the constant support of Moscow (military presence, energy delivered for free, etc.). The separatist 'republic' is Russia's political tool for maintaining its influence in the region.

Currently, Moldova has 4,45 million inhabitants. Since the dissolution of the Soviet Union, significant changes happened to the ethnic composition of the population.

Nationality	1989		2004	
	Number [1000 people]	%	Number [1000 people]	%

⁷¹ The various sources use both the names *Transnistria* and *Transdniester*. The difference comes from the name of the river: in Russian it is called *Dniester* while in Romanian and in Moldovan it is *Nistru*, without the initial "d." The authors of this study prefer the *Transnistria* version, as it is closer to the official Moldovan name of the separatist region. In addition to this, the *PMR* abbreviation can be used as well, which comes from the official Russian name of the 'republic': **P**ridniestrovskaya **M**oldavskaya **R**espublika.

Moldovan-Romanian	2796	64,5	3488	78,2
Ukrainian	598	13,8	374	8,4
Russian	563	13,0	258	5,8
Gagauz	151	3,5	196	4,4
Other	164	3,8	142	3,2
Altogether	4335	100	4455	100

Ethnic composition of the population of Moldova

The 1989 data of the chart are gained from the Soviet census; however, the 2004 ones are not from the Moldovan census held that time, but from the summarized estimations of the CIA World Factbook. The reason behind this is that Transnistria did not join the Moldovan census in 2004, thus using only the information provided by the Moldovan statistical office would be misleading.

The separatist 'republic' conducted its own census a month later, in November 2004. According to the results, the population of Transnistria was approximately 555.000 thousands, which showed a significant decline compared to the 679.000 people of 1989. The following ethnic composition was measured: Moldovans 31,9%, Russians 30,3%, Ukrainians 28,9% while the remaining 8,9% was composed of Bulgarians, Turks, Jews, etc. One has to add that despite of its diverse ethnic composition, the population of Transnistria is almost entirely Russian-speaking. Though the constitution of the separatist 'state' declares three state languages (Russian, Ukrainian, Moldovan), the few Moldovan-speaking schools are under constant political pressure, while most Ukrainians in the region are Russian-speakers.

There are two main reasons behind the changes in the ethnic composition of the Moldovan population, an especially behind the sharp decline of the Russian and Ukrainian population. First, in the early '90s, a significant amount of them migrated back to Russian and to Ukraine (the effect of this is visible in the Transnistrian data as well.) This was particularly true in the post-civil war period, when there were also deportations conducted. Second, as it was mentioned in the introduction, since the end of the Soviet era, being in favor of a Russian identity ceased to be 'fashionable' and declaring a Moldovan or Romania identity became more popular. To this one has to add, that during the 2004 census, large number of people could not make a distinction between the issues of mother tongue and nationality, even members of a same family often gave different answers. That is why in the final results the Moldovan and Romanian identities could not be separated.

The Gagauz autonomy

In Moldova the Gagauz people – being of Turkish origin, but Catholics by religion - who are approximately 5% of the overall population, form a special autonomous community. The cultural movement of the Gagauz people started in the '80s. By the end of the decade, they started to demand autonomy inside the Moldovan Soviet Socialist Republic, still being a member of the Soviet Union. The 1989 decision on adopting the Moldovan to be the second state language was of crucial importance for the Gagauz – using Russian in everyday life, they started to feel seriously threatened by a future Moldovan-Romanian unification.

Therefore, in March 1991 most of the Gagauz voted for preserving the Soviet Union. Taking the opportunity of the Moscow *coup de état*, they declared their independence on 19th August 1991, being shortly followed by Transnistria in September. However, the independence of Gagauzia was rather a political declaration, not a *de facto* break away – the political elite knew it very well that an independent Gagauz state would not have been sustainable at all. Chisinau did not recognize any of the separatist steps, but being bogged down by the intensifying Transnistrian conflict, more or less admitted the Gagauz claims as being justified. Thus, the former blatantly pro-Romanian rhetoric of Chisinau become rather moderate and more attention started to be paid to the minority rights.

The situation of the Gagauz people was settled finally by the law adopted on 23rd December 1994 by the Moldovan parliament. The Gagauz Autonomous Territorial Unit was established with Komrat being the center of it. The autonomy is built up on a special territorial system: in each and every settlement, where the rate of the Gagauz people exceeded 40%, a referendum was organized on belonging to the newly formed Autonomous Territorial Unit. Finally altogether 32 towns and villages joined the autonomy, thus it is composed of two separate parts.

The Gagauz people have their own parliament, composed of one chamber, which has legislative authority over the territory of the autonomous unit. The Gagauz parliament can adopt laws – not contradicting the Moldovan legislation! – in the field of education, cultural, local development, social security, finance and taxation, in addition to the administration of the autonomy itself. The Gagauz parliament can participate in forming the Moldovan domestic and foreign policy and has the right to turn to the Moldovan constitutional court. Head of the executive power is the directly elected governor, the *bashkan*, who in person is always a member of the Moldova government. On the territory of the autonomy, the Gagauz people have their own police, separate elementary and high schools and there is a pedagogical college and a state university in Komrat. In addition to these, with the support of Turkey, a Turkish cultural center and a Turkish library were built as well.

The system of the Gagauz autonomy settled the problem of a minority with efficiency earlier unprecedented in Eastern-Europe. Probably the key element of the success was that the Gagauz people had rationally moderate claims with a very good timing. Therefore, for the Moldovan government it was much easier to accept the Gagauz requests than becoming involved in another conflict besides Transnistria. Currently, the situation of the Gagauz minority is considered to be stable. The system of the autonomy functions well and there is no sign that Turkey would like to use the Gagauz people for pursuing its own regional political objectives.

Summary

The similar demographic trends of the post-Soviet region are illustrated by the national censuses conducted 10-12 years after regaining the independence. The number of population is decreasing in all examined countries, though with different speed. At the same time the number of those who declare themselves to belong to minorities is also decreasing – with the sole exception of the Crimean Tatars migrating back to their homeland. The tendency can be explained by emigration (from the Baltic States), assimilation (Lithuania and Belarus) and the gradual change of identities connected to the regained statehood (Ukraine). It is important to note that in all countries the rights of the non-majority communities are guaranteed by law (constitution, laws on minority, bilateral international treaties.) However, in some cases the political practice is not fully in line with the spirit of the laws (Estonia, Latvia), in another case the whole implementation process is

halted (Belarus) or the full extension of the minority rights, including the issue of language usage and autonomy, might result in the break-up of the country (Ukraine). In those territories which are under the control of the Moldovan state, the minority rights are pretty well respected, but in the separatist 'republic' of Transnistria they are in a quite weak position.

Russia plays an active role in the protection of the Russian-speaking communities, both in the bilateral relations and in the various international organizations as well. Nonetheless, in many cases Moscow uses the minority issue as a cover for exercising political pressure, particularly in Estonia and Latvia. In the early '90s, the situation of the Polish community in Lithuania was prioritized the Polish-Lithuanian bilateral relations. Nowadays, the minority issue is still important but is far from having a dominant role in the foreign policy of Warsaw towards its North-Eastern neighbor.

National projects

The young Baltic States are eager to restore the national characters of their countries - though with different means and level of determinedness – even if this may harm the minorities living here. However, in the '90s, pursuing EU and NATO membership, neither Tallinn, nor Riga or Vilnius could ignore the warnings coming both from international organizations (EU, OSCE, Council of Europe) and from their neighbors (Russia, Poland). Thus they had to settle the minority question according to the European norms and standards. Considering their number and role in the country's entire life, the Russians living in Latvia could demand even the dualist transformation of the state, following the example of Belgium but the Latvian political elite is absolutely opposed to the idea. According to expert opinions, both the Latvian and Estonian minority policy in practice aims at the assimilation of the minorities instead of preserving their identity. The minorities living in Lithuania are much more integrated to the society (knowing the language, being loyal to the state, etc.); however, despite of the existence of the relevant legislation, the outcome still might be the assimilation of the minority communities.

In Belarus, there is no visible national project, consequently the situation of the minorities is unique. Paradoxically the people using the Belarusian language and having a strong national identity are *de facto* in a minority situation in their own country. Moreover, even those ones who consider themselves to be non-Russians tend to declare Russian to be their mother tongue. So do the Belarusians – having a majority in the statistics - and members of some other minorities as well (Poles, Ukrainians, and Jews). In addition to this, the restrictive policies of the regime, together with the gradually worsening economic situation, seriously hamper the life of not only the national minorities, but of the entire population of Belarus.

In Ukraine, being the largest one among the studied countries, the political elite did not manage to elaborate neither a theory, nor a practice answering the question of 'nation state vs. State of national communities.' Due to the different historical traditions and the strong regionalist character of Ukraine, such a choice was made that no choice was made at all. There is no national minority in Ukraine, which could have a real influence on the country's political life – as the Russians shall not be considered to be minorities, but rather to be a second state-forming nation. The minority question is rather an issue only in the bilateral relations with the given kin-states (Poland, Hungary, and Romania.)

Due to the really mixed ethnic and linguistic composition of the population of Moldova, defining the 'national' objectives is *per definitionem* complicated. Only the Gagauz minority has clear-cut,

well-defined national goals, what they already achieved in the mid-'90s. Since the 16 years of the Moldovan independence, there is no clear conflict between the power structures and the minorities suppressed by them. The political leadership, bogged down by the Transnistrian conflict, always keeps balancing between the three great regional powers, Russia, Ukraine and Romania. With such a situation, a strong anti-minority policy would not be compatible at all. Nonetheless, even the Russian-speaking minority has no chance to take over the country and turn it towards a more favorable, pro-Russian direction – the presence an influence of the 'big brother' Romania is enough to prevent such a scenario.

In the long run, it is highly probable that the rate of the Russian-speaking population will keep decreasing and parallelly the Romanian cultural and political influence will become stronger. Partly this is why Moscow pushes Chisinau to guarantee the rights of the Russian minority by law (including the right to language use and having their own education) and makes this issue to be a primary pre-condition of the settlement of the Transnistria conflict. The question of the separatist 'republic' has no real ethnic or minority-related component. The main problem will be that in case of a re-unification, the still Soviet-minded, mostly Russian speaking population will have to integrate to the Moldova society. Thus, the core question will not be related to the different ethnicity or mother tongue, but to the different mentality.

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I. Introduction

In the last couple of decades some of us witnessed and some took part in the awakening of national and regional claims, in religious and ethnic renaissance, in group formation, and in the sharpening of old and the birth of new questions for identity in the Southeast European countries. The need for establishing continuity between the past, the present and the future has intensified as has the concern for procuring *roots* and *memory*⁷². The calls for the preservation of national, religious and cultural identities inevitably led to new forms of national and intercommunity conflicts, ethnic and religious tensions which question the meaning of European development. The painful decades of transition that followed were no less a test for the Southeast European peoples than were the conflicts themselves.

It is a well-known fact that problems which have been worsening for decades are especially difficult to overcome. At the same time, the last years of transition and transformation of the Southeast European countries showed that only effective and expert governance aimed at solving concrete problems as well as a clear vision of the future and a development agenda common for all social groups can be the solution to old problems.

What is the role of minorities in the transition processes of the Southeast European countries? Has this role been imposed by the majorities or earned by the minorities? How much has minorities' status changed? Are the rights and interests of the representatives of minorities really protected as a result of the changes? These are the questions which will be addressed in our analysis below.

II. You cannot escape responsibility for tomorrow

Eric Weil deliberately looks for the manifestations of nationalism only in societies where "modern efforts have still not led to any results and where the standard of living is low, where in the same time the differences between the different community groups are large." Another reason for the manifestation of nationalism, as seen by him, is the underdevelopment of the civil society⁷³. In other words, nationalism is the expression of social tensions regardless of whether we study the nationalism of the minority or the nationalism of the majority. The first threatens the foundations of the national state and the unity of the nation. The second one emphasizes the ethnic and not the civil characteristics of the nation. In this way both types of nationalism hinder the natural development of the processes of transition to a multiethnic democratic society.

⁷² Lipowetski, Gilles, Sebastien, Charles, „Hypermodern Times”, Paperback, April 1,2005, 42.

⁷³ Weil, Eric, Philosophie politique, Librairie philosophique, Paris, 1996, 204.

Since, as Weil puts it, the manifestations of nationalism constitute *the main problem* wherever they are a problem, this phenomenon should also be the object of express policies of the government and the state. To this end, strategies should be created and a systematic effort should be made for building a common positive environment on the basis of a broad public debate.

III. Minority Governance

Minority governance and minority participation in the governance processes in the Southeast European countries have always been a challenge for the political class.

The ruling circles of Southeast European countries, yielding to the external pressure from international organizations and in the context of the Euro-Atlantic accession processes already underway, declared most of the existing international standards in the field of minority rights as the principles underlying their policies. At the same time, however, the application of such standards is a projection neither of the values of the general public nor of the conscious political will but is rather a listless performance of commitments made without internal conviction of their value and necessity. As a result, minority policy in the region is often formal, random and ineffective.

It is further evident that the institutional framework on minority issues in the Southeast European countries is ahead of the views of a great part of the population. Viewed in the context of mass political culture and the development level of civil society, the existing policies concerning minorities are even deemed as unnecessary and servicing political goals external to the public interest. Thus, measures which address problems of minorities tend to be unpopular.

All countries in Southeast Europe have ratified the Council of Europe's Framework Convention on the Protection of National Minorities (hereinafter: 'Framework Convention'). The Convention is widely applied in the European Union member states. The European Union has also included "respect for and protection of minorities" in the Copenhagen criteria for membership in the Union.

The Framework Convention considers minority rights as individual rights which, however, may often be enjoyed in community with others (e.g. participation, language etc.). The preamble of the Convention shows clearly that the protection of national minorities is essential to stability, democratic security and peace: that a pluralist and genuinely democratic society is inextricably linked to the respect of the identity of persons belonging to national minorities, and that the creation of a climate of tolerance and dialogue enables cultural diversity to be a source of enrichment of each society. In anticipation of the argument that standards are so high that they will never be reached the concept of the gradual and progressive realization of rights is well accepted, and a key element is non regression. The Council of Europe's Advisory Committee on the Framework Convention (hereinafter: 'Advisory Committee') is sensitive to this and commends any gradual progress it identifies by State parties to the Convention.

A key aspect of modern understanding of minority rights is the principle of participation of persons belonging to minorities, in decision-making on the issues directly affecting them. Consequently, the Framework Convention stipulates in Article 15 that:

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

Its official explanatory report notes that:

80. This article requires Parties to create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them. It aims above all to encourage real equality between persons belonging to national minorities and those forming part of the majority. In order to create the necessary conditions for such participation by persons belonging to national minorities, Parties could promote – in the framework of their constitutional systems – inter alia the following measures:

- consultation with these persons, by means of appropriate procedures and, in particular, through their representative institutions, when Parties are contemplating legislation or administrative measures likely to affect them directly;*
- involving these persons in the preparation, implementation and assessment of national and regional development plans and programmes likely to affect them directly;*
- undertaking studies, in conjunction with these persons, to assess the possible impact on them of projected development activities;*
- effective participation of persons belonging to national minorities in the decision-making processes and elected bodies both at national and local levels;*
- decentralised or local forms of government.*

Article 4 of the Convention provides that:

- 1. The Parties undertake to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority shall be prohibited.*
- 2. The Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities.*

The measures adopted in accordance with paragraph 2 shall not be considered to be an act of discrimination.

Hence, the States parties to the Convention regard effective participation of persons belonging to national minorities, in concert with the principle of non-discrimination, protection and advancement of minority identity, and the requirement to promote full and effective equality in all areas of economic, social, political and cultural life, as an essential (and mandatory) component of a peaceful and democratic society. This is why we consider that the Framework Convention defines patterns of appropriate State action concerning the protection of minority rights. However, the framework nature of the Convention means that the implementation of these legal standards requires the adoption of national legislation and appropriate governmental policies at the domestic level in the Southeast European countries. In this study we therefore focus our attention more on

the quality aspects of the participation of minorities in the transition processes than on a discussion of the standards for human and minority rights. We take as given the statutory standards on the rights of minorities in compliance with the Framework Convention, emphasizing issues related to the application of these standards.

IV. Definition of ‘Minority’

There have been many attempts by international organizations to agree on a definition of ‘minority’ and ‘national minority’. While there is broad agreement on various essential components of such a definition - such as, that the group has separate characteristics and is non-dominant - it has been difficult thus far to reach an agreement between states. The Framework Convention does not provide a definition of the term “national minority”.⁷⁴

The prevailing legal doctrine, which dates back to the time of the League of Nations, establishes that the existence of a minority is a question of fact, and not a question of law. This view is maintained in the General Comment on Article 27 of the ICCPR⁷⁵ of the Human Rights Committee.⁷⁶ This principle is also upheld in the case of the Framework Convention. The Advisory Committee has stressed in its Advisory Opinions that in the absence of a definition in the Framework Convention itself, the parties must examine the personal scope of application to be given to the Framework Convention within their country. The Advisory Committee has also noted that although parties have a “margin of appreciation”, some flexibility in this respect, in order to take the specific circumstances prevailing in their country into account, it has noted that this must be exercised in accordance with general principles of international law and the fundamental principles set out in Article 3 of the Convention. No arbitrary or unjustified distinctions can result from this decision: Article 3 of the Framework Convention guarantees persons belonging to national minorities the right to choose freely whether or not to be treated as such. Freedom to identify, or not to identify, with the name used to designate a minority is one essential aspect of this right. It is of crucial importance to ensure that this choice is indeed free, not made under government’s pressure, and that indeed no disadvantage results from this choice.⁷⁷

Naturally, the personal choice of the individual is bound with objective criteria, relevant to the identity of the person. Such objective criteria could be cultural and behavioural models, language,

⁷⁴ Consequently, in this report the term ‘minorities’ is often used as a short hand for persons belonging to national, ethnic, religious and linguistic minorities.

⁷⁵ International Covenant on Civil and Political Rights, entry into force 23 March 1976.

⁷⁶ According to paragraph 5.2 of the General Comment:

“The existence of an ethnic, religious or linguistic minority in a given State party does not depend upon a decision by that State party but requires to be established by objective criteria”.

⁷⁷ Of course self-identification, as upheld by international bodies including the Advisory Committee, is not an absolute right. It does, however, have strong implications for the observance of other undeniable human rights principles such as nondiscrimination, freedom of religious affiliation, and freedom of association, and must always be considered in connection with such other incontrovertible principles of human rights.

religion etc. The professional opinion of psychologists, cultural anthropologists, pedagogues and social workers contribute to the criteria.⁷⁸

One question is whether there should be a list of minorities entitled to protection under the Framework Convention. One of the main problems posed by drawing such list is the need to periodically reconsider its content. Alternatively the lack of definition may mean focusing government attention on select, state-recognized minority populations, rather than all those entitled to protection. In the case with Albania for example, the Advisory Committee noted that despite the historic presence of Egyptians in Albania, they appeared to have been *a priori* excluded from the protection of the Framework Convention⁷⁹.

V. Implementation of minority standards in Southeast European countries

The language of the Framework Convention gives Southeast European countries which are parties to the Convention a major responsibility in its implementation. The Convention and the Explanatory Report make it very clear that State Parties must initiate not only *legislation* but also *policies* and *programmes* in many ministries and other public agencies to implement their commitments. Legislation and policies need to be transformed into *actions* to ensure that the legal provisions and the programmes are implemented. This demands planning, good communication and coordination, pilot schemes, implementation mechanisms with budget allocations, and resources located both centrally and locally. Successful implementation will involve senior government officials, local government officers, capable managers, good agencies, and experienced and committed staff. All sorts of intermediaries need to be engaged including the media, employers, organizations and professionals including teachers. A variety of ways must be used to engage individuals, families and communities; whether people are living in rural or urban areas, young, old, men, women, across employment areas, majorities, as well as to minorities. Civil society has a key participative role in ensuring that such standards are agreed, but also to help in the challenge of implementation. But if minority governance policies are to be effectively implemented, they must be owned and valued by society at large. We will return to that topic later.

The realization of minority rights requires the translation of international standards, constitutional provisions, and other relevant domestic legislation into working practices for every community and every individual. At the same time, the rights in question are complex, including civil, political, economic, social and cultural rights. Further, they combine the individual and the collective. As a result, they are often placed in an environment of dispute.

Minority rights often do not find support in the mass consciousness, and the social and psychological perceptions of the majority. A typical example in this regard is the lack of trust among ethnic groups and hostility related to the return of refugees and displaced persons on the territories of the former Republic of Yugoslavia. Fostering of mutual understanding and intercultural dialogue remains vital to the future of social cohesion in these countries, which has been adversely affected by the armed conflicts. For example, in Croatia, many problems rest with

⁷⁸ See Explanatory report CoE 1995: 5.

⁷⁹ Opinion on Albania, Advisory Committee on the Framework Convention, 12 September 2002, ACFC/INF/OP/I(2003)004.

the protection in particular of the Serbian and Roma minorities, in the field of employment⁸⁰. These problems are prevalent in the framework of the return process but they are also severe in other fields. Similar is the situation in BiH⁸¹ and Serbia⁸² where inter-ethnic relations are still seriously affected by the legacy of the recent conflict. Manifestations of inter-ethnic tension are still reported and the efforts to build tolerance and trust need to be expanded further. Interethnic tensions are observed also in Macedonia⁸³, particularly in the younger population groups. These illuminate the existence of significant barriers between the different communities, and particularly between Albanians and Macedonians.

Implementation of minority standards is a particularly challenging task in Kosovo⁸⁴ where hostility between Albanians and Serbs is still very tangible - a situation which also harms the protection of other communities in Kosovo (particularly Roma). The implementation of practically all principles of the Framework Convention is made extremely difficult by the fact that inter-ethnic violence has seriously eroded trust between communities. Uncertainty as to the future status of Kosovo further complicates the picture.

The protection of minority rights in Bulgaria is primarily in the field of individual rather than collective or group rights. Minority languages are freely used in private life, but there is no legislation on the official use of minority language in local public administration. Unlike Bulgaria, Romania has developed a special compensatory mechanism for smaller national minorities that represent too small portion of the country's electorate to win seats in parliament through the ordinary electoral process. However, sometimes high thresholds for establishing a political party and for minority participation at local elections with organizations other than those represented in parliament could have a negative impact on Romanian minorities' ability to participate in political life. Representation of ethnic Hungarian and respectively Turkish populations in Romania and Bulgaria in institutions of public administration has been quite successful, especially at the local level. However in both Bulgaria and Romania Roma participation has been far from full and effective. All minorities seem to remain under-represented in sectors such as the police, the army, and the judiciary.

The EU has required a more coherent state policy towards the minorities and has financed specific measures aimed at improving the access of especially the Roma to various public services and employment. However, the lack of adequate Roma presence in the political life in the Southeast European countries has led to Roma problems not being sufficiently reflected. The overall implementation of specific measures and activities remains low.

⁸⁰ Opinion on Croatia, Advisory Committee on the Framework Convention, 6 April 2001, ACFC/INF/OP/I(2002)003.

⁸¹ Opinion on Bosnia and Herzegovina, Advisory Committee on the Framework Convention, 27 May 2004, ACFC/INF/OP/I(2005)003.

⁸² Opinion on Serbia and Montenegro, Advisory Committee on the Framework Convention, Strasbourg, 27 November 2003, ACFC/INF/OP/I(2004)002.

⁸³ Opinion on "the former Yugoslav Republic of Macedonia", Advisory Committee on the Framework Convention, 27 May 2004, ACFC/INF/OP/I(2005)001.

⁸⁴ Opinion on Kosovo, Advisory Committee on the Framework Convention, Strasbourg, Strasbourg, 02 March 2006, ACFC/OP/I(2005)004.

Perhaps the factor which is most indicative of the current level of awareness and commitment of policy-makers in the Southeast European countries, is the extent of funding made available from the state budget for minority programming. Insufficient budgets are constraints limiting all policies, not only those that target minority issues. Nevertheless, funding issues have particular implications for minority programming, where long-term commitment is needed to implement dramatic changes. However, too often, minority strategies and programmes are adopted without ensuring the necessary financial resources. Very often most of the available funding is from donors. The governments themselves have provided limited funding, with little long-term scope.

In addition to increasing the level and efficacy of funding from the state budget, it is necessary to provide inter-related funding of public information and education projects. It is critical to involve the media to ensure that minority governance is seen as a positive contribution to Southeast European countries' societies as a whole. It is important to engage both minority groups and the governments in order to nurture a shared understanding of what is needed. A shared understanding of concepts relating to needs assessment, programming, and monitoring and evaluation, is required for long-term success of strategies targeting minority issues in the countries of Southeast Europe.

VI. Civil society (state of mind)

In the last decade, during the Euro-Atlantic accession processes, the Southeast European countries have made considerable progress toward liberal democracy. The formal procedures for democratic processes have been established, but functioning public institutions are still lacking because the development of civil society and public opinion are lagging behind the political institutions. Democracy not only requires formal procedures for managing civil and political rights, but also presupposes the existence of an effective court system which guarantees that these procedures will be applied, as well as a civil society composed of engaged and competent citizens.

Today we see some concepts diverging more and more from their original meaning in terms of significance and substance. Today we speak of the nation as the citizens of a country united by a common political act, regardless of their differences in terms of language, tradition, culture. Over time the state has been entrusted with different functions – to express the will of the majority, to secure the equality of all before the law, and to ensure access to public services.

The modern state should first of all establish a functioning set of institutions which will create confidence that every single citizen will be able to exercise his/her civil, political, economic and cultural rights, will benefit from the public wealth and will participate in the management of public processes through the political representatives elected by him/her. It is not possible to achieve true democratic government without the adequate and effective participation of minorities in the cultural, social, political and public life. A view of the state as an instrument for democratic government is a prerequisite both for balancing the interests of the different ethnic, language and religious communities and for the fair representation of these interests in public decisions and actions. Deviation from this objective can undermine the legitimacy of the basic structure of any state.

When the characteristics of a nation such as a community of history, way of life, religion and customs are mentioned more often than those of a community of political ideas and visions of the future within a state, there is a risk that certain groups will be effectively excluded from this nation because they do not share the religion, customs and values of traditional culture of the majority.

At the same time, minority communities should not expect their “inclusion” to come mainly as an initiative of the majority, the media or the government, and they should not explain its absence only in terms of discrimination. Greater self-consciousness and organization among minorities expressed in the form of active mechanisms for achieving representation would considerably help speed up the desired processes. In order to achieve their purpose, nongovernmental organizations should formulate a clear stand on the issues which the minority in question view as most important in order to stimulate a public debate which will be heard by the representatives of the public authorities with the help of the media.

VII. Participation in the government

Recent experience shows that a new analysis of the basic concepts for managing problems of minorities is necessary in order to help the society overcome prejudice. Such a discussion should start by updating basic concepts related to minorities and human rights, including the following: nation, sovereignty, human rights, rights of minorities, individual and collective rights, identity, ethnicity, liberal order, development, conflicts, democracy, republic, secularization, constitutional state, liberalism, globalization, expertise, and representation.

It is crucial that human rights (including the rights of minorities as an integral part) be perceived both as a prerequisite for development and as an instrument for development, and not only as an end (in itself). Everyone should become aware that “human rights, instead of placing people to development’s service, formulate the requirement for freedom of every person to express his/her needs and interests, to formulate his/her understanding of development and to realize it on his/her own behalf and for himself/herself.”⁸⁵ In other words, the stress placed on minority rights must be understood and presented in terms of the development of the society as a whole: Considerable differences between minorities on the one hand and the majority on the other in social, economic and cultural status reproduce poverty as well as exclusion.

In its *World Development Report* for 1998, the World Bank indicates that poor people cannot take part in development until they get access to information and are in a situation where they can use it. Often, however, they are effectively prevented from exercising their rights by a lack of resources⁸⁶. Naturally, this is where the question of sharing resources and access to them arises.

Today there is more and more strengthening of the rights-protection aspect of development policy which requires rehabilitation of economic, social and cultural rights and acknowledgment of their equality with civil and political rights in a new agenda for moving from the mere rhetoric of

⁸⁵ Tomasevski, Katarina. “Правата на малцинствата в политиката за подпомагане на развитието”,12, Minority Rights Group International, 2000, www.minorityrights.org.

⁸⁶ 1997 World Bank Development Report, 23, www.worldbank.org/wdr/wdr98.

rights protection to pragmatism and expertise. This change in turn necessitates analysis carried out jointly with the poor on their actual experience in accessing their basic human rights⁸⁷. This new aspect of rights protection should be paid special attention in the context of the changing vision of the nature of human development itself, as well as of systems of values and definitions of ethnicity.

In its *Human Development Report* for 1997, the UN views poverty as the absence of choice and of possibilities for developing one's abilities, placing considerable emphasis on the factors which add meaning to the life of a person, rather than focusing exclusively on the prerequisites for material well-being. Poverty can thus refer to the lack of opportunities for a person to enjoy a long and fruitful life, good health, reasonable living standard, freedom and dignity, self-respect and respect for others. For decision makers, poverty understood in this way has always been more important than simple income poverty since it shows the reasons for the latter and can serve for creating strategies for empowerment or other actions improving the opportunities for everyone.⁸⁸

In recent years, the meaning of the concept of development has been sought increasingly in the need to create, nourish and acknowledge people's own idea of the world both individually and publicly. Cultural and social rights turn into a nucleus of human and communal development and interaction with the natural and social environment. What is more, many people see the condescending or hostile attitude of a politically prevailing majority to the economically and socially underprivileged minority as a manifestation of cultural discrimination, an attempt to explain and justify the inequality in status with the ethnic, religious or cultural characteristics of this minority.

There are examples from Bulgaria and Romania how power-sharing experiences with minority political parties have contributed to boosting these countries' image in foreign relations and improving inter-ethnic relations at the level of the society as well. The European Commission evaluated very highly power-sharing and cooperation with the two most active minority political parties, i.e. the Democratic Alliance of Hungarians in Romania (DAHR) in Romania and the Movement for Rights and Freedoms (MRF) in Bulgaria. The MRF is an influential nationwide party, predominantly supported by Bulgaria's ethnic Turkish minority. Founded in 1990, it was twice on the edge of being barred from participating in the general elections in the early 1990s due to a Constitutional prohibition of ethnic parties. The MRF's legal status was subsequently established through a Constitutional Court decision. The MRF has cautiously distanced itself from demands for territorial autonomy, while insisting on raising the minority's educational, cultural and socio-economic status.⁸⁹ Nowadays the Bulgarian MRF is an influential party in parliament and a partner in the present coalition government which is a valuable asset in the democratization process.

Founded in 1989, DAHR is the largest Hungarian minority party in Romania and represents a wide variety of Hungarian interests. It is a nationwide party with a diverse membership of territorial organizations, platforms and associated members (social, scientific, cultural and other

⁸⁷ Hauserman, Julia, "A Human Rights Based Approach to Development", DFID, 1998, London, 18

⁸⁸ United Nations Human Development Report 1997, 34, www.hdr.undp.org/reports/view_reports.

⁸⁹ Hoepken, W. (1997). "From Religious Identity to Ethnic Mobilization: The Turks of Bulgaria Before, Under and Since Communism." In: ed. H. Poulton and S. Taji-Farouki, *Muslim Identity and the Balkan State*. London: Hurst & Co.

groups). The DAHR won 41 seats in the 1990 elections, 39 seats in the 1992 elections, 37 seats in the 1996 elections, 39 seats in the 2000 elections, and 10 senators and 22 deputies in the 2004 elections. No other organization of ethnic Hungarians has managed to make a successful bid for the Parliament at national elections.⁹⁰ DAHR has been successful at local elections as well. In the period after 1996, DAHR took a more moderate stance towards the issue of territorial autonomy but pressing instead for community rights which it considered important for guaranteeing local self-governance. Prior to 1996, the DAHR proposed using models of autonomy from other countries for Transylvania (most importantly, that of the Italian province of South Tyrol) (Verdery 1996: 118). Since 1996, the more moderate leadership of the DAHR has forfeited the issue of territorial autonomy while obtaining more rights for the Hungarian community based on cooperation with other majority parties. DAHR has largely succeeded at ascertaining the use of the Hungarian language in areas such as justice, education and local administration, although some problems remain. Provisions in the Romanian Constitution safeguard the official use of minority language when dealing with local public authorities in localities with over 20 percent minority population.⁹¹

VIII. Identity, ethnicity and cultural affiliation⁹²

Modern democracy presupposes that citizens, regardless of their ethnicity, should respect the culture of others. Within the framework of the globalizing community and in the context of growing Europe, the preservation of cultural identity turns both into a challenge and a conscious need. With the advent of democracy in Southeast European countries, various minorities have had their rights restored and they were able to acquire additional rights. At the same time, in most countries voices can be heard that present minorities' integration and preservation of minority cultural identity as mutually exclusive. Hence despite some progress in fields such as education, the use of minority languages in public and private life, and participation in culture life, positive steps remain insufficient. The provisions on teaching minority languages have not prompted substantial changes in practice in the region as a whole. A possibility to give greater support for initiatives coming from the minority communities – such as Montenegrin, Roma, and Aromanian minorities in Albania, or the Vlach minority in North-Eastern Serbia, to promote their languages and cultures should be considered. In Macedonia, the constitutional and legislative changes made in accordance with the Ohrid Agreement, lay the foundations for greater protection for minorities, *inter alia*, in such fields as the use of minority languages, education and participation, with the introduction of the principle of equitable representation for minorities at all levels of public administration. Still, additional measures should be adopted also so as to take better account of the needs for teaching in minority languages, as expressed by various communities, notably the

⁹⁰ Alionescu, Ciprian-Calin (2003). "Parliamentary Representation of Minorities in Romania", conference paper of the Political Studies Association (PSA), <http://www.psa.ac.uk/cps/2003%5CCiprian%20Alionescu.pdf>

⁹¹ However, some ethnic Hungarian leaders are criticizing the DAHR's leadership for giving up the idea of territorial autonomy. This led to growing divisions between the DAHR and more radical ethnic Hungarian formations.

⁹² "Modern states which are functionally integrated by market and administrative power still delimit themselves from one another as -nations" as they always have done. But this says nothing about the specific character of national self-understanding. It remains an empirical question when and to what extent modern populations understand themselves as a nation based on ethnic membership or as 'a nation of citizens. This double coding has a bearing on the issue of exclusion and inclusion. National consciousness vacillates in a peculiar fashion between more extensive inclusion and renewed exclusion". *Jurgen Habermas.: The Inclusion of the Other, Cambridge, Ma., 1998, 129-153.*

Turkish and Albanian communities. In this connection, further measures are also needed in relation to the media, so as to foster access to the media for persons belonging to minorities⁹³.

Why is it so difficult for the majority in Southeastern Europe to acknowledge the minorities' right to cultural identity? Is the attitude towards cultural identity of minorities a question of special treatment or the result of the changing vision of ethnicity and identity as a whole?

A key characteristic of information societies seems to be the dominant role of identity as an organizing principle. Identity means the process through which social subjects define themselves and build the meaning of their existence based mainly on one specific cultural trait or group of traits, while excluding broader affiliation to other social structures.⁹⁴ Today, when the world is united in global networks of cooperation while remaining divided at the same time into persons, groups, communities, regions and even states which entirely or partially excluded from these networks, there is a distinctive tendency to build public actions and policies around primary identities. These primary identities may be ascribed, rooted in history and geography, or recently set up in the process of a frenzied search for meaning and spirituality.

In this situation, the loss of minority group identity to individual identity can be characterized as a specific manifestation of the general trend for total globalization – of economy, of culture, of values. As the general progress of the information society leads to the gradual loss of national integrity, political independence and even national sovereignty – all crucial for the formation and flourishing of the national state and the classic capitalism from which the modern state emerged – all decisions and wills become pointless when they are based entirely or mainly on ethnic, national and religious borders. Regardless of whether minorities comprise cultural communities within a nation or translational regions, they should develop in the conditions of an overall democratization of public life both in the individual states and at the global level.⁹⁵ At the same time, because democratic decisions take into account the opinion of all and every single member of the society, it is evident that the rights of minorities acquire a new role and influence, both as political, civil, economic, cultural and social rights exercised individually, and as collective rights exercised within and by communities as such.

IX. The strength and weakness of civil society organizations

Civil society is often seen as symbolized by nongovernmental organizations working in the civil sector. Indeed, civic organizations should by definition represent the interests of the society, know the needs of those they claim to represent, formulate their priorities and tasks and express their position in order to be heard. In order for this to really happen, civic organizations should be backed by people, not by interests.

⁹³ Opinion on “the former Yugoslav Republic of Macedonia”, Advisory Committee on the FCNM, 27 May 2004, ACFC/INF/OP/I(2005)001.

⁹⁴ Castells, Manuel, “The Information Age: Economy, Society, and Culture. Volume I: The Rise of the Network Society”, 1996, Oxford: Blackwell, 53.

⁹⁵ Неделчева, Тая. „Идентичност и време”, „Марин Дринов”, София, 2004, 95-96.

In order to achieve their purpose, nongovernmental organizations should not only formulate a clear stand on burning social issues, but should also become part of the public debate and, more important, be heard by the representatives of the public authorities. What is of great importance here is the creation of a legal and institutional mechanism to guarantee that civil society organizations will be heard. Partnership between the public and civil sectors should be a common goal because partnership is comprised not only of consultations and debates but also of taking decisions.

What is more, these decisions providing for specific actions and measures are expected to become an integral part of state policy. Otherwise we take part in a formal process aimed at suggesting conviction but which ultimately results in reduced trust in public institutions and nongovernmental organizations on the part of the society at large. In order to convince the society of the effectiveness of the partnership between public and civil sectors, it should be evident that every single participant in this process has a relevant role in it and bears a specific responsibility. In this sense, the liability for the lack of a real dialogue and partnership is shared among all participants. We should therefore not “blame” only those who “are not able” to formulate the actual needs and priorities or those who “refuse” to hear the personal stand expressed.

In the countries of Southeastern Europe, it often happens that the public sector accuse nongovernmental organizations of not being representative or insufficiently expert, while nongovernmental organizations accuse public institutions of refusing to listen. However, this approach does not lead to any positive solutions. Instead, if one of the parties is not comfortable with its role, it should clearly and unambiguously state in public its refusal to accept only formal participation. In similar fashion, if one of the parties does not see the other as a partner, it should state that openly and in public. The society should also be enabled to hold each of the parties responsible for the fact that it does not perform the tasks it has voluntarily assumed. Otherwise, there are sufficient grounds to think that with its very participation in a process which is formal and ostentatious in its nature, each individual party tries to deceive the society into believing that societal interests are being protected.

An effectively functioning public-civic partnership in the field of minorities is still nonexistent in Southeastern Europe. The state authorities habitually fail to procure an effective institutional mechanism and do not seek extensive dialogue with the nongovernmental sector on minority issues. In Bulgaria, for example, a National Council on Ethnic and Demographic Issues has been operating since 1997, but is not a significant factor in solving the problems of minorities. Similar is the situation with the National Council of national minorities in Serbia and the Council of National Minorities in Romania. The latter is a consultative body of the Romanian Government on minority issues in which minority organizations elected to Parliament participate. The Framework Convention Advisory Committee reports that the Council is not always consulted on all issues affecting minorities, and that its views – even when unanimous – are sometimes disregarded without explanation by State agencies. Furthermore, the minority organizations in the Council are dependent on financial assistance from the state budget which puts them to a subordinated position to the government in power. In addition, as noted by the Advisory Committee, the structure of the Council gives substantial weight to one organization for each minority. This creates the risk that other organizations representing the same minority may to

some extent be sidelined and not receive adequate state support⁹⁶ (especially in the case of Roma organizations).

Hence, established to meet the urgent needs of the minorities, minority consultative bodies in most Southeast European countries still remain a “promising innovation”⁹⁷. In Southeastern Europe as a whole, the missing link for process of public-civic partnership is the creation of genuine legal and institutional partnership framework. Consultation on substantive issues is still not sufficient. Government bodies that oversee implementation of minority policy often do not have authority to require other government offices to implement them. It is not enough to have consultation mechanisms; it is important to give minorities a real voice to shape policy on issues concerning them.

X. Perfecting the legal framework on minority issues. Expected results

Regardless of some positive changes in the legal framework and the application of good practices in certain sectors, an advanced policy on governing minority-related issues will not be created unless the mechanisms of good governance related to participation of minorities are provided for expressly in the laws themselves. At present, however, the legal framework on the management of minority-related issues in most countries of Southeastern Europe is fragmentary, controversial, formalistic, and ineffective.

Adoption of specific legal provisions and even specific laws, such as the Anti-Discrimination Laws in Bulgaria and Romania, the Law on the Protection of Rights of Persons Belonging to National Minorities and the amendments to the Election Law in BiH, and the Law on the Protection of Rights and Freedoms of National Minorities in Serbia by itself is not able to solve the existing problems. Significant efforts will therefore have to be made by the governments to complete the legal and institutional framework as well as to ensure its full realisation in practice. It is essential also that key institutions build further trust within minority communities, through increasing professionalism and by more effectively addressing inter-ethnic incidents and other concerns of persons belonging to various communities.

Furthermore, the creation of a legal framework should be preceded by a consistent and thorough process of creating a concept of the national policy regarding minorities; only through an extensive public discussion can the national policy on minorities be adopted and supported both by the majority of the citizens of Southeast European countries and by representatives of the minorities in these countries.

XI. *Efficiunt quod figurant*⁹⁸

The interrelated issues of human rights and the rights of minorities, of development policy and administration aimed at minorities, as well as of the role of minorities in the government are characterized on the one hand by greater complexity than is usually believed and on the other hand by a nonsystematic approach to research and insufficiency of analyses including but not

⁹⁶ Opinion on Bulgaria, Advisory Committee on the FCNM, Strasbourg, 5 April 2006, ACFC/OP/I(2006)001.

⁹⁷ Opinion on Serbia and Montenegro, Advisory Committee on the Framework Convention, Strasbourg, 27 November 2003, ACFC/INF/OP/I(2004)002.

⁹⁸ *Efficiunt quod figurant* (Lat.) They achieve what they express.

limited to the absence of any fieldwork regarding specific situations. Considering the ambiguity surrounding basic principles and the general terminological chaos⁹⁹ in this area, as well as the strained relations between minorities and majority, there is an even greater need for research. Another circumstance causing difficulties is that the minority communities themselves are not monolithic but are internally heterogeneous and differentiated. As a result, minorities tend to be immune to influence and management by uniform application of undifferentiated policies and measures.

The variation within minorities necessitates even more the decentralization of the management of programs aimed at minorities since the possibilities of success are greater in case of management on local level. This is the case because it is at the local level that the active participation of representatives of the specific minority group is possible. Consequently, it is at this level that feedback mechanisms must be established with an eye to the timely adjustment of relevant policies.

A characteristic feature of the state policy regarding minorities in Southeastern Europe is its declaratively non-discriminatory nature¹⁰⁰. It often provides for measures which are applied in the same manner to all citizens of the country and fail to create the statutory bases for distinctions and preferences based on ethnicity, culture, religion, etc. Such an understanding stems from abstract fundamental principles and is at first sight not devoid of legal justification and worldly justice. In reality, however, it not only fails to be effective and rational but also deprives some of the representatives of minorities from any chance of inclusion in economic life, closing a vicious circle of poverty, illiteracy, low occupational qualification, lack of opportunities for social and economic integration, exclusion from public life and permanent marginalization. By themselves, these results lead to extremely unfavorable consequences not only for the individual but also for society as a whole, transforming the problem from one of identifiable persons and groups into a general-public one.

If such a policy was aimed at public relations in which all minority groups together with the majority were in similar economic, social and political conditions, it would be justified, effective and obviously just. However, we should have in mind the fact that the current situation is

⁹⁹ Terminologies are far from innocent; they imply a particular point of view. The neologism "ethnonationalism" blurs the traditional distinction between "ethnos" and "demos".) This expression emphasizes the proximity between an "ethnos," a prepolitical community of shared descent organized around kinship ties, on the one hand, and a nation constituted as a state that at least aspires to Political independence, on the other. In this way the assumption that ethnic communities are more "natural" and evolutionarily "more primitive" than nations is implicitly contradicted. The "we-consciousness," founded on an imagined blood relation or on cultural identity, of people who share a belief in a common origin, identify one another as "members" of the same community, and thereby set themselves apart from their environment, is supposed to constitute the common core of ethnic and of national social formations. In view of this commonality, nations would differ from other ethnic communities only in their degree of complexity and scope: It is the largest group that can command a person's loyalty because of felt kinship ties; it is, from this perspective, the fully extended family. *Jurgen Habermas.: The Inclusion of the Other, Cambridge, Ma., 1998, 129-153.*

¹⁰⁰ "...A society is democratic to the extent that people in it have meaningful opportunities to take part in the formation of public policy. There are a lot of different ways in which that can be true, but insofar as it's true, the society is democratic. A society can have the formal trappings of democracy and not be democratic at all." *Noam Chomsky, Secrets, Lies and Democracy, 1994.*

completely different. In some countries, entire minority groups fall into the so-called “risk” or “marginalized” groups. In other countries, it is evident that there is a real, factual division between some minority groups and the remaining part of the population of other countries. Sometimes this division is so deep that it creates preconditions for upheavals.

We think that the time has come for state policy toward minorities to be reconsidered and reevaluated through the prism of a new *functionality* and *effectiveness*. Policies in different countries should take into account the specifics of the minority communities and groups, consider them and thoroughly rework the international standards and measures provided for in international law documents in compliance with these specifics. The simple adoption of certain models from the outside without their adjustment to the specifics of every minority group does not lead to positive results.

Another specific feature of minority communities in Southeastern Europe is that a great number of them live in underdeveloped regions. In Bulgaria, this is especially true of the Turkish and Bulgarian Muslim communities, but it is also true to a great extent of the Romani population even if the latter is not so evidently concentrated in a specific region. The problems of these groups and other like them not only originate from, but are often identified with the problems of the region in which they live. In the process, it is often forgotten that it is not the peculiarities of the minority population or its traditional religion, way of life and culture that are the reasons for the problems in the region but *vice versa* – the problems of the region accruing with time and aggravating because of the lack of any specific practical measures aimed at their solution are the basis for the low social and economic status and isolation not only of the minority communities but also of the remaining population of the respective region.

Considering the fact that in some regions characterized as underdeveloped the greatest part of the population is comprised of minorities, it is worth recalling the recommendation of the Consultative Council for the Framework Convention that the state should take targeted measures to eliminate these structural differences which hinder the participation of minorities in the economic life of the country, reduce their access to public services such as education and healthcare and negatively affect their overall presence in the public life in the country. To take a concrete example, considering that underdeveloped regions in Bulgaria are traditionally inhabited largely by minorities, we should admit that without a stronger, targeted policy for overcoming structural differences Bulgaria will not be able to perform the obligations provided for in Art. 4 and Art. 15 of the Framework Convention. Similar is the situation in Serbia, where the Advisory Committee for the Framework Convention noted that there were wide variations between regions in terms of efforts taken to protect languages and cultures of national minorities - whereas in Vojvodina a number of commendable initiatives have been introduced, the situation is considerably less developed, for example, with respect to the protection of the Vlach minority in North-Eastern Serbia¹⁰¹.

In addition to the above specifics of minority communities related to the regions they inhabit, some of these communities, such as for example different groups of the Romani minority, have a number of cultural specifics influencing their participation in economic life and the labor market

¹⁰¹ Opinion on Serbia and Montenegro, Advisory Committee on the Framework Convention, Strasbourg, 27 November 2003, ACFC/INF/OP/I(2004)002.

which we should take into account and investigate with great objectivity. Another fact of crucial importance is the different opportunities of the above minorities and especially those of the Romani minority in terms of level of educational attainment, employment experience and specific occupational skills. Another feature specific only to the Romani minority is the negative attitude of some employers because of the belief that Roma do not have working habits and sufficient motivation for active inclusion in the labor process. In combination with Roma's insufficient qualification and experience, this factor puts them into the category of the so-called "at-risk" and "marginal" groups.

In light of the above, great attention and responsibility are necessary for solving the problems of covert and overt discrimination. Regardless of the existence of modern nondiscrimination frameworks in compliance with EU standards for instance in Bulgaria and Romania, court proceedings which end with an effective ruling are still uncommon. This suggests the existing formal legal framework is not sufficiently enforced and proves that the existence of such a legal framework does not eliminate discrimination practices. Additional measures are therefore needed and should be more systematic and more consistent. The lack of statistical information concerning national minorities and the issues affecting them particularly seriously hampers the monitoring and the design of policy and practice in relation to national minorities.¹⁰²

With this in mind, policy for the education of minorities should have a double aim: to guarantee their complete integration in the broader society and at the same time to preserve their cultural identity. On the one hand, the rights of minority communities to study their own language, history and culture should be protected. On the other hand, it is clear that in order for them to achieve success, all children should also be fluent in the official language of the country. This is consistent with relevant international legal documents, which assert that state-provided education in the languages of minorities should not exclude teaching the official language.

Stress should also be put on circumventing problems of isolation and self-isolation and reaching forms of total unwillingness for integration among the members of the large minority groups if exclusive mother-tongue education were to be introduced. These situations are more likely if minorities inhabit regions where they form compact masses and are therefore isolated from the rest of the population. Throughout Southeastern Europe, circumstances such as these hinder the expansion of teaching children from the majority and children from minority groups together. On the one hand, this type of teaching could help improve the integration of children of minority origin and has been recommended by a number of organizations for protecting the rights of minorities. Grouping Romani children in separate schools is in particular viewed as an indication of a segregation and isolation policy and is not in compliance with the generally accepted international standards. On the other hand, the ambiguity of this issue is evidenced by the example of other minorities, which use separate schools for thorough and high-quality teaching and training for the children of these minorities with extensive use of teaching in their mother tongue.

The problems of minorities in Southeastern Europe can be solved over time with the help of a clear vision, consistent and expert policy, flexible measures and sufficient funding. However, we

¹⁰² We should also note the insufficiency of available information on this issue.

cannot and should not expect that these problems will be resolved at once and overnight¹⁰³. With this in mind, we should be ready to view old problems in the light of new developments, with the need for new articulations of words which have lost their charm and effect, such as equality (in rights and obligations), justice (individual and common to all) and, last but not least, involvement and compassion. We do not claim that this discussion has the goal or even the possibility to offer entirely new and original solutions, as we acknowledge that originality stems from what we already know and what we have taken for granted. What is more, we are willing to acknowledge that accumulation is a valuable asset and that new results are often a modification of old ones. What we insist on is a public debate in which all groups participate. Such a debate should have clear conceptual foundations and should serve as a premise for the exchange of opinions and recommendations which can not only be discussed on the level of research, but also be adopted and applied in practice.

XII. Vulnerable minorities

Recently a new type of confrontation has started to emerge in the Southeast European countries. The phenomenon has objective economic roots, but is increasingly ethnicized, with immense economic underdevelopment resulting on the one hand from inherited poverty, lack of education and ghettoization, and on the other hand from prejudice on the part of the majority regarding the marginalized minority.

This is a common issue to all Southeast European countries. In Macedonia the discrimination suffered by persons belonging to the Roma community occurs in various fields and bears witness to considerable socio-economic differences between them and the rest of the population. Difficulties are particularly obvious in the realms of employment, housing, health care and education¹⁰⁴. Similar is the situation in BiH where a full and effective equality has not been secured for Roma and they continue to be exposed to discrimination and face particular difficulties in fields such as housing, health care, employment and education¹⁰⁵. The situation of the Roma in Romania also gives rise to deep concern, notably regarding numerous acts of discrimination in a wide range of societal settings.¹⁰⁶ Roma are the most marginalized group in the society, subject to wide-spread social, economic and educational inequalities.

The explanation for this phenomenon can be found both in the difficulties of the transition and in the cultural and psychological gap which separates the Romani community like barbed wire from all other majorities and minorities in the Southeast European countries. The obvious isolation and marginalization of the Romani community is deepening, resulting in a new, bipolar situation

¹⁰³ Gould, Stephen J. *The Panda's Thumb: More Reflections on Natural History*, NY: W.W.Norton, 1980, 9.

¹⁰⁴ Opinion on "the former Yugoslav Republic of Macedonia", Advisory Committee on the Framework Convention, 27 May 2004, ACFC/INF/OP/I(2005)001.

¹⁰⁵ Opinion on Bosnia and Herzegovina, Advisory Committee on the Framework Convention, 27 May 2004, ACFC/INF/OP/I(2005)003.

¹⁰⁶ Opinion on Romania, Advisory Committee on the Framework Convention, Strasbourg, 10 January 2002, ACFC/INF/OP/I(2002)001.

which is much a paradox (insofar as it divides the society not according to ethnic or social principles but according to the Roma – non-Roma principle) as it is a crisis.

What makes measures aimed at improving the social and economic status of the marginalized Romani minority so unpopular with the majority in the countries in Southeast Europe? Unlike the generally accepted view that this is a manifestation of ethnic opposition, we claim that the reasons more likely stem from the economic domain and a basic sense of justice. As a member of the society, the citizen has the right to a fair share of the social product. The concept of social justice in the specific historical conditions is different for every social group since it depends on the group's ideas, social status and preserved traditions. However, it is evident that each of the parties in the bipolar Roma – non-Roma model fosters a deep-seated feeling of social injustice stemming from a perceived imbalance in the contribution for the creation of the social product on the one hand and the participation in its distribution on the other.

In the long term, a group marked by social and economic inequality based on ethnicity will not be able to continue in the face of pronounced differences not only in living standard but also in access to and participation in the handling of public issues. Persistent inequality and the feeling of exclusion which stems from it inevitably lead to a dead-lock and therefore to opposition. Isolating such a group from social processes contributes even more to carrying their values and priorities from the public space into the personal one and from the social, political and economic life into the community, kin and family. Such exclusion from the modern life of the society keeps the members of the group in the bosom of traditional culture and estranges them from the values and priorities of society at large.

Today, when the individual is evaluated from the viewpoint of his/her participation in economic life and his/her place in society is determined with a view to the effectiveness of such participation, minority groups which are subjected to social exclusion remain associated mainly with traditional values and subordinated to the “need for belonging”¹⁰⁷. The idea that the excluded social and economic groups are gradually passing from passive listlessness and despair into active resistance is becoming more and more popular. Undoubtedly, the government has the means necessary for striking back, but social practice does not show such measures to be effective.

We should also not underestimate the importance of the hierarchy of unsatisfied needs for the formation of the overall individual and group philosophy and vision of the future. As Abraham Maslow says – and not figuratively at all – the utopia of the chronically hungry man can be just a place where there is plenty of food. It is more than probable that the person deprived of food, security, love and respect is more hungry for these very things than for anything else. All abilities are placed in the service of satisfying these needs, while the qualities that do not contribute to this end remain potential or are pushed to the back. Everything else is defined as immaterial – freedom, social feeling, respect, dignity, law and order¹⁰⁸.

An absolute premise for the origination of the need for self-realization is that the physiological needs and the needs for security, love and respect have already been satisfied. This is why we

¹⁰⁷ Ardrey, Robert, „Territorial Imperative”, 1966 r., Maslow, Abraham, „Motivation and Personality”, „Kibea”, 2001, 23.

¹⁰⁸ Maslow, Abraham, „Motivation and Personality”, Kibea, 2001, 82-83.

maintain that it is time that we gave up loud debates about whether the education or the economic development of the Romani people (a debate similar to the chicken or the egg dilemma) have a higher priority with a view to improving their status and their integration in social life. Accordingly, policy should demonstrate a dialectical view of the problem in its dynamics and should aim its efforts at elaborating and implementing a strategy for development of the community based on the application of international standards– without exception and without reservation. This will require considerable resources, but the measures contained in international legal documents must be applied in the Southeast European countries if the latter wish to be part of Europe in more aspects than just the geographical one.

XIII. The Janus face of the nation¹⁰⁹

Thus far, we have discussed the situation of social injustice in which the representatives of the minority are weaker and in a more unfavorable condition due to their very quality of being a minority. Here we can note for the sake of comparison that not all minorities in the Southeast European countries are in a disadvantaged economic condition. Often cited examples are the Hungarian minorities in Romania, the Croatian ones in Serbia and Bosnia and Herzegovina, and the Armenian and Jewish minorities in Bulgaria. What we observe in these minorities proves even more how the role and the fatal attractiveness of the ethnic decrease with the increase and distribution of the public wealth. Minorities in an equal social and economic position (which does not always result from their direct participation in and sharing power with the majority), may complain that the majority does not follow their way of life, moral values, language or religious affiliations to a sufficient extent but they do not try to deny from a moral standpoint or otherwise endanger the political unity of the state and the nation¹¹⁰.

XIV. Justice and effectiveness

Another aspect of the issues discussed which should not be underestimated is the sense of social injustice on the part of the *majority*. In Southeast European countries the sense of social injustice is often directed against the disadvantaged minorities and is based on the greater contribution of the majority in the formation of the social product in the distribution of which the disadvantaged minorities objectively (or according to its subjective idea) does not hold a place. This points to the need for *both* the minority and the majority to be convinced that their particular interest has been taken into account in order to promote cooperation on the societal level. The goal of the state is namely to organize social affairs through institutions in such a way that satisfies the social

¹⁰⁹ “The Janus face of the nation, which opens itself internally but shuts itself off from the outside, is already implicit in the ambivalent meaning of the concept of freedom. The particularistic freedom of externally asserted collective national independence seems to be merely the protective shield for the internally realized individual liberties of the citizens—their private autonomy as members of civil society (Gesellschaftsbürger) no less than their political autonomy as citizens (Staatsbürger). The conceptual opposition between a compulsory, ascriptive ethnic membership viewed as an inalienable property, on the one hand, and a freely chosen membership guaranteed by subjective rights in a voluntary political community that grants its citizens the option of emigrating, on the other, is dissolved in this syndrome. This double coding still inspires competing interpretations and contradictory political diagnoses”. *Jürgen Habermas.: The Inclusion of the Other, Cambridge, Ma., 1998, 129-15.*

¹¹⁰ Weil, Eric, *Philosophie politique*, Librairie philosophique, Paris, 1996, 206.

and economic needs of every group and community, turning their representatives into *citizens* and thus maintaining the internal unity of the nation.

It is here that we find the crucial role of effective government, a major obligation of the states undergoing transition. The task of governments in the region is not only to suggest a sense of social justice but also to respond to that sense by taking into account the *private interest* in ways compatible with *social justice*. In this we see both the great potential of the civil nation and a positive solution to the imaginary conflict between justice (on the historical, social and individual level) and effectiveness (in the sense of government taking into account individual and group interests). As Eric Weil skillfully summarizes in his research on nationalism, the government which strives for justice without caring for interests is *unjust* since interest is the driving force of society, while the government which aims at effectiveness at the expense of justice is *wrong* insofar as it contradicts itself and does not create anything lasting because it will not achieve the cooperation of citizens.

In the real and active world, *justice* is justice of interests in much the same way as *effectiveness* is organization of interests. In this sense, neither are minorities fundamentally different from the majority, nor are the measures aimed at improving the status of disadvantaged minorities unpopular in isolation. Instead, what makes such measures unpopular is lack of understanding of the need for immediate implementation of these measures and the benefit from the implementation of these measures for the society as a whole. Also contributing to the unpopularity of such measures are attempts to depreciate and simplify both the reasons for the problems accumulated and the overwhelming consequences which the accumulation of these problems could lead to in the future¹¹¹.

¹¹¹ Blakely, Edward, "Information City and the Ghetto-The L.A. Experience." Los Angeles: University of Southern California, Lusk Center Research Institute, 1995, WP LCRI-95, 10.

4. Workshop Reports

A) Central Europe (Budapest)

Prepared by Balázs Vizi, Regional Expert

I. INTRODUCTION

There is no doubt that after 1989 one of the characteristic features of democratic transition in Central and Eastern Europe (CEE) was the rise of nationalism, inter-ethnic tensions and ethnic-based political mobilisation both in minority and majority societies. The joint tasks of political and economic transition in CEE resulted in devastating political and social changes within a very short period of time. Instability and insecurity emerged in various areas of everyday life and drastic changes often lead to the reinforcement of individual and collective identities and on various occasions this reflected in the tensions emerging between national minorities and majorities.

The International Centre for Democratic Transition (ICDT) with the financial support of the Swiss Federal Department of Foreign Affairs and King Baudouin Foundation has launched a project to analyse the situation of national and ethnic minorities in the transition process in the Central and Eastern European region and in the Western Balkans. The first preparatory workshop was organised in Budapest on 23 February 2007 with the aim to explore the experiences of democratic transition in the four 'Visegrad Countries', i.e. the Czech Republic, Hungary, Poland and Slovakia. The primary goal of this workshop was to map the situation of minority rights, the development of legal institutions protecting minorities and the implementation of international standards on minority rights in domestic policies and legislation.

In these states democratic transition was a non-violent and institutionally channelled process at the beginning of the 1990s. But in this process minority communities and people belonging to minorities have often had the sensation to be left out from the transition process. Many times they suffered the consequences of democratic changes. In these four countries there were no violent conflicts between minorities and the majority, and more or less stable democratic institutions have been developed in the past fifteen-seventeen years. Nevertheless even in these states minority issues are often formulated in political discussions in terms of potential conflicts. Assessing the experiences of the workshop, with the exception of Slovakia, in the other three countries minorities form very small communities, which often live in scattered populations. Most important minority problems in the region, thus are not the threats of open violent conflicts, but much more issues related to the political representation of minorities, their effective involvement in the political decision making processes, and their social integration, specifically relevant for the Roma. On the other hand, the legal environment has developed in an unbalanced way. Many times it reflected actual political compromises without regard the real needs and the perspectives of minorities. The situation of Roma minority raises particular concern in this respect in all these countries.

This report summarises the most important issues regarding the situation of minorities in the region as they were reflected in the contributions presented at the Budapest Workshop.

II. ROLE OF MINORITIES IN THE PROCESS OF TRANSITION

The Czech Republic

The Czech Republic is probably one of the most homogenous countries in Central and Eastern Europe. According to 2001 census the total number of minorities living on the territory of the Czech Republic form 5,4 % of the total population, including 3,7% Moravians, who are not officially recognised as minority, but they are considered to have a regional identity.

The Czech Republic became independent after the dissolution of former Czechoslovakia in 1993. Among the different minority groups, the representatives of Polish and Roma minorities were more active in political mobilisation. In the political transition to democracy in 1990-1991, the representatives of Polish minority joined the political movement Coexistence which was mainly a party of the Hungarian minority. After the Czech and Slovak Federation split, the Polish minority section of that Coexistence which was called *Spulnota* and headed by the representatives of the Polish minority reached political representation only at local level not even at regional one. To improve its performance Coexistence has been permanently making some efforts to create successful coalition with majority parties. This has not been really effective. It should be also noted that Coexistence still keeps a structure of the joined party for all national minorities, however this structure is nowadays more symbolic as the other minorities are not at all active in Coexistence. General contribution of the Polish minority to democratic transition in many cases was very progressive, but often disputable since some of their representatives were a member of the communist establishment and many promoted totalitarian and nationalist efforts. This could also harm election attractiveness of Coexistence within the progressive part of the minority population. Politicians of Polish origin are also present in majority parties, however they usually promote the idea of a multicultural Czech nation, rather than representing specific minority claims.

In the case of Roma minority, a huge Roma political movement, the Roma Civil Initiative emerged at the time of the democratic revolution. It was a part of the minority-friendly leading political power of the revolution, the Civic Forum Movement. After the breakup of the Civic Forum, the Roma political representation was not able to find backing in their own community. Thus the Roma Civil Initiative is currently a marginal party struggling for its own survival. The Roma, though their share in the total population is much smaller than in Hungary or Slovakia, often suffer from political and social discrimination. Majority political parties usually see anti-Roma statements more profitable than pro-Roma political programs. The Czech Republic received severe criticism in this regard from international organisations like the Council of Europe, and the European Union.

Hungary

Hungarian legislation recognises thirteen minorities living on the territory of the country, these are: Armenian, Bulgarian, Croatian, German, Roma (Gipsies), Greek, Romanian, Ruthene, Serbian, Slovak, Slovenian, Polish and Ukrainian. In numbers these minorities – except for the

Roma – form rather small communities, which live in territorially dispersed settlements. According to official census the total number of all minority communities in Hungary (including the Roma) represent 3,4 % of the total population. But most independent observers agree that the number of Roma can be estimated much higher, representing alone cca. 4-5% of total population. Like in the Czech Republic, minority political movements are rather weak, there is no minority party which could achieve stable local, not to mention national representation at democratic elections. Nevertheless, the minority self-government system offers an important forum for political representation of minorities.

In Hungary, the evolution of the minority protection regime was characterised by two main principles: the freedom of individual choice of identity and the acknowledgment of collective or group rights. In this aspect, in the new democratic Hungary, political discourse on minorities was largely determined by the joint commitment of Hungarian political elites to support minorities and their specific rights, including their collective rights. In Hungarian legislation this was reflected in the institution of cultural autonomy established by the Minority Act.¹¹² In the external realm, this commitment emerged in the encouragement of international legislation on minority rights and on the support of Hungarian minorities' claims for broader rights protection and autonomy. Some authors argue that clear foreign policy input behind the development of the minority protection system in Hungary was visible.¹¹³

Already from the dawn of political transition in Hungary, a new minority policy was shaped by multiple variables, including the human rights protection approach together with national policy goals and the re-formulation of Hungarian neighbourhood policy. In this respect, the political representation of minority issues was closely related to the recognition of the importance of minority rights protection in reinforcing security and maintaining international stability. It is widely believed that the Hungarian system of minority rights protection did not necessarily reflected the claims of minorities living in Hungary, but was influenced by foreign policy interests: fulfilling the political conditions of European integration and providing a positive example for neighbouring states, where large communities of Hungarian minorities live.

The transition period was characterised by the development of a minority self-government system, which offers an institutional framework for cultural autonomy of minorities living in Hungary. Nevertheless, in Hungary the gravest problems related to minorities were not legal or institutional ones, but had a more social character: the Roma population was clearly one of the main losers of democratic transition, these communities suffered the most from recent unemployment, social marginalisation and discrimination. For all other minority communities assimilation is considered to be the most important challenge. While the new legislation on minority rights attempted to stop and turn back assimilation processes – by offering a wide range of institutional guarantees – it could not answer the social problems of the Roma.

Poland

In Poland, according to the legislation in force, a national minority is defined as a group that identifies itself with the nation organized in its own state whereas the ethnic minority as a group

¹¹² Act 77/1993 on the Rights of National and Ethnic Minorities.

¹¹³ Krizsán, Andrea (2000) 'The Hungarian Minority Protection System: a flexible approach to the adjudication of ethnic claims' in *Journal of Ethnic and Migration Studies*, Vol. 26, No. 2. p. 249-250.

which does not. For legal recognition however for both groups there are additional conditions: they shall be Polish citizens whose ancestors lived in Poland for at least 100 years.

The 2002 national census in Poland revealed that over 96% of the population defined themselves as having Polish national identity and only 1.23% of people declared having different national identity.¹¹⁴ The most numerous minority communities live in the border regions of Poland.

The Germans, the Ukrainians and Belorussians form the largest minority populations, but from a political perspective during the transition period, the German community raised attention the most. During the communist times the government did not recognize Germans as a minority and state authorities often persecuted people declaring their German origins. In 1989, when the transition process started, the German minority became more visible, which shocked the Polish public opinion, as most people believed there are not any Germans in Poland. This cultural-historical tension provoked political and social conflicts at local level on various occasions. German minority was recognised only in 1991 which status was reinforced also in the German-Polish bilateral treaty on reconciliation and co-operation. Currently according to the census the Germans are the most numerous minority in Poland. They are the only minority that exercised their right to have a representative in the parliament although they did not manage to exceed the 5% electoral threshold. Currently there are two representatives of the German minority in the parliament.

Their biggest organization is the Union of German Social and Cultural Associations that is an umbrella organization for smaller organizations and they enjoy subsidies from Germany as well as from Poland. The main aim of all minority organizations is to maintain and support culture, language, folklore, and they organize festivals, exhibitions but they are basically organized on a local level. In Poland one of the main problems of these organisations that they are not very attractive among young people and assimilation process is rather strong in minority communities.

Slovakia

Slovakia is a really multiethnic state, where about 15% of the total population (5.3 million inhabitants) declared an ethnic affiliation different than Slovak – the actual share of non-ethnic Slovaks is estimated to be as high as 21-22%.¹¹⁵

In Slovakia, we may differentiate between three types of non-immigrant minority communities. The first one is the Hungarian minority, the largest one, forming alone 10% of the total population and living in rather compact settlement along Slovakia's southern border. Moreover this is an ethnic and national group against which the Slovak nation exercised its right to self-determination for the first time, against the Hungarian state in 1919, which gives to this relationship a specific character. The second group is the group of traditional national minorities (especially Czech, Ruthene, Ukrainian and German) which are considered to be historical communities living on the territory of Slovakia in relatively small populations. The Roma minority can be seen as a special minority group in Slovakia; according to the official census in 2001 there were 89920 people declaring themselves as Roma, but here again sociological surveys estimate the number of Roma much higher, up to 3-400.000 persons.

In Slovakia three phases of democratic transition can be identified. The first phase was the establishment of the fundamentals of democracy in a pluralistic political system, (still within the

¹¹⁴ For about 2% the nationality was not established.

¹¹⁵ Cf.: Minority Rights Group International (1997) „Slovakia” in: *World Directory of Minorities*. London: MRG, pp. 245-247.

political structure of Czechoslovakia, the Velvet Revolution), as the transformation of the communist totalitarian state to a pluralistic democracy. In this first period the emphasis was laid first of all on political and civil rights and ethnic claims were not high on the agenda. It almost shocked the Hungarian minority community as such, because one part of the political elite or social elite of the Hungarian minority realised that it was not a suitable political environment for presenting specific minority demands. Such claims simply were not accepted by the majority or the political representation of the majority. This caused disagreement within the political representation of the Hungarians, one part of it joined the government, the other part stayed out of the government and there were a lot of heated disputes between these two wings. Even though, the whole political representation of Hungarians in Slovakia and the whole electorate of Hungarian minority in Slovakia backed the first phase of democratic transition. Even the Hungarian parties in opposition massively supported the government in democratic changes, thus it can be underlined that the political parties representing the Hungarian minority played a crucial role in the first phase of democratic transition. Other minorities were not successful in political mobilisation and were not represented in parliament.

The second phase of the democratic transition came in 1998, following the rule of Mr. Meciar's government, which was characterised by anti-democratic measures, causing international isolation for Slovakia. This process turned back in 1998, when with participation of the Hungarian Coalition Party, a new democratic government entered in office under the leadership of Mr. Dzurinda. The first and second Dzurinda cabinet, which was supported by the Hungarian Coalition Party was successful in obtaining NATO- and EU-membership. Both Hungarian electorate and Hungarian political elite played a crucial role in this process, because without Hungarians no democratic government could have been created in 1998. Moreover, public opinion surveys showed that the Hungarian population of Slovakia was the strongest supporter of the case of the Euro-Atlantic integration. In these coalitions, the Hungarian party made serious concessions from its minority claims (like the abolition of Benes-decrees, the claim for territorial autonomy) which showed that the Hungarians were ready to work for common goals in spite of the fact that they have always accused that they are just focusing on very-very specific minority issues.

After the 2006 parliamentary elections the Hungarian Coalition Party was not invited in the new Fico-government and the leading Smer party entered in coalition with the extremist-nationalist Slovak National Party. The political representation of Hungarians has weakened at national level, but still the Hungarian party usually gets the overwhelming majority of votes from the Hungarian minority community.

Besides development of the Hungarian political representation, the other significant feature of democratic transition in Slovakia was the social marginalisation of Roma. Just like in Hungary, people belonging to the Roma minority lost their jobs in huge numbers (cca. 60-70% of adult Roma population is unemployed) and suffered various forms of discrimination.

III. THE SITUATION OF MINORITIES TODAY: LEGAL AND INSTITUTIONAL FRAMEWORK

The Czech Republic

The basic protection of national minorities is determined by the Constitution¹¹⁶ and the Charter of Rights and Freedoms¹¹⁷ as a part of the constitutional order. The Charter confers both collective

¹¹⁶ Act 1/1993 on the Constitution of the Czech Republic.

¹¹⁷ Act 2/1993.

and individual rights. It differentiates between national and ethnic minorities without defining this difference. In 1994, the Government of the Czech Republic formulated some legally not binding principles of the policy concerning national minorities in the document “*Concept to Issues Concerning National Minorities in the Czech Republic*”. After a long period of difficult discussions, in June 2001 a Law on Ethnic and National Minorities (Minority Act)¹¹⁸ was finally approved by the Czech parliament, entering into force on August 2nd, 2001.

This Minority Act specifies the rights of members of national minorities and the competence of ministries, administrative authorities and authorities of territorial self-administration units in relation to these rights. Although the Act was largely based on the Framework Convention on the Protection of National Minorities, it differs in a fundamental way.

The Minority Act gives definitions for the basic terms “national minority”¹¹⁹ and “a member of a national minority”¹²⁰ which provide subjective definition of belonging to a minority.

Furthermore, the Minority Act foresees a Council of the Government for National Minorities as consultative and initiative body headed by a member of the Government. Nevertheless, this law is criticized not only by representatives of the national minorities, but also by NGO’s since it offers considerably less protection than early drafts and it may have little relevance for Roma, given the 10% threshold for application. Moreover, the UN Commission for Elimination of all Forms of Racial Discrimination repeatedly criticized the lack of legal provisions for the protection of minorities from discrimination, since the Minority Act was restricted to rights related to the development of national minorities without facing the problems of discrimination.¹²¹

The Czech Republic has joined the Framework Convention for the Protection of National Minorities, which was ratified in 1997, and signed the European Charter for Regional or Minority Languages, which was ratified only in 2006. Among other international instruments, worth mentioning are bilateral agreements between the Czech Republic and neighbouring countries, in particular the Federal Republic of Germany, Poland and Slovakia, which guarantee the protection of rights of persons belonging to the respective national minority. Article 10 of the Constitution of the Czech Republic gives human rights treaties precedence over domestic law.

Hungary

In Hungary the Constitution recognises minorities as state-constituent parts of the population and ensures their collective participation in public affairs (Art. 68). The Constitution also recognises their right to self-government and protects both individual and collective minority rights.

¹¹⁸ Act 273/2001.

¹¹⁹ „A national minority is a community of citizens of the Czech Republic who live on the territory of the present Czech Republic and as a rule differ from other citizens by their common ethnic origin, language, culture and traditions; they represent a minority of citizens and at the same time they show their will to be considered a national minority for the purpose of common efforts to preserve and develop their own identity, language and culture and at the same time express and preserve interests of their community which has been formed during history.”

¹²⁰ „The member of a national minority is a citizen of the Czech Republic who professes other than Czech ethnic origin and wishes to be considered a member of a national minority in common with the others who profess the same ethnic origin.”

¹²¹ See also Carolin Zwilling: Minority Protection and Language Policy in the Czech Republic. In: *Noves SL Revista Sociolinguista*, 2004 Autumn

The first and very important feature of the Hungarian minority protection system is the way, the Minority Act defines minorities. The Act, provides a definition of ‘historical minorities’ as the only target groups of the minority protection system. The Act refers to minorities whose members hold Hungarian citizenship and have lived on the territory of Hungary for at least one century (Art. 1(2)). Later the Act names 13 groups that “qualify as native ethnic groups of Hungary” (Art. 61(1)).¹²² But this enumeration is not exclusive: the Act allows for any other minority group to apply for recognition as a minority if it fulfils the conditions under Art. 1 (2) and is supported by at least 1000 citizens who profess to belong to it (Art. 61). Given, however, the requirement of being present for 100 years, it is clear that no new minority resulting from recent immigration can apply for recognition in the foreseeable future.

The basic principle of the Act and of the entire protection of minorities is that each individual is granted the inalienable right to declare his/her national identity and to refuse to do so.¹²³

To its merit, the Hungarian legislation defines the right of national and ethnic minorities to their identity as part of universal human rights, while their individual and collective rights are seen as basic rights to freedom. Thus, one of the main characteristics of the Minority Act is that it is based on a dualistic concept of minority rights. In accordance with this, it specifies individual and collective rights in separate chapters. Individual minority rights cover every person’s right to have an identity (Art. 8.), the right to equal opportunity in politics and cultural life (Art. 9.), to choose and use their names in their own language and the right to use their own language (Art. 13.). Moreover the Minority Act defines as an individual right, the right of every person belonging to a minority community to keep family traditions, family relationships and cross-border relations with his/her kin-state (Art. 11 and Art. 14 respectively).

Collective rights defined in the Minority Act cover the most important areas of collective minority identity preservation. Minorities have the right to preserve their language and traditions, to organize their feasts and events, to preserve their architectural, cultural and religious heritage, and to use their symbols. At the same time, the law guarantees their rights to education in their mother tongue and to the establishment of a national network of educational, cultural and scientific institutions. Public radio and television are obliged to prepare and transmit minority programmes regularly, while the state is called upon to facilitate the reception of radio and television programmes transmitted from the minorities’ motherlands. Minorities have the right to form social organizations as well as local and national minority governments, and these are entitled to establish direct international relations. The law mentions the possibility of minorities’ parliamentary representation, too. Finally, it enacts the institution of the ombudsman for the rights of national and ethnic minorities (Arts. 15-20).¹²⁴ The minority self-government system works well as the past three successful elections proved it. Even though the minority communities are not always able to benefit from their legally granted opportunities, because the financial background of the minority self-governments is often weak for maintaining special cultural, educational institutions. Thus, these minority institutions are often managed by the state authorities.

¹²² These are Bulgarian, Gypsy, Greek, Croatian, Polish, German, Armenian, Romanian, Ruthenian, Serbian, Slovakian, Slovenian and Ukrainian minorities.

¹²³ The emphasis on the privacy of one’s ethnic or national self-identification is further reinforced by the Data Protection Act (Act LXIII of 1992 on the Protection of Personal Data and Public Access to Data of Public Interest) which deemed to be sensitive data any information on national or ethnic origin and introduced strict regulations on the processing of such data.

¹²⁴ See also the introductory summary on the rights of minorities in Hungary in the first and second report of the Republic of Hungary on the implementation of the Council of Europe’s Framework Convention for the protection of national minorities, ACFC/SR(1999)010 and ACFC/SR/II(2004)003 respectively.

The most lasting problem however is the lack of parliamentary representation: despite existing legal provisions, as minority candidates are unable to pass the threshold for entrance in parliament, the political parties could not agree on the techniques of a preferential mechanism, which could guarantee minority representation in parliament.

Hungary was among the first states to sign and ratify both the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages.

Poland

The most important legal document is the Constitution of the Republic of Poland, which under Article 35 states that Polish citizens belonging to national or ethnic minorities are ensured with the freedom to maintain and develop their own language, to maintain customs and traditions and to develop their own culture. They also have the right to establish their own organizations, to have cultural, religious institutions. Approximately there are more than 140 civil minority organisations registered in Poland, though it shows a relatively low mobilisation of minority populations. Moreover the constitution protects the languages of minorities and of course it prohibits any forms of discrimination. Based on the constitutional provisions, a special act was adopted in 2005 (entered into force on 1 May 2005) on national and ethnic minorities and on the regional languages. This act accepts the subjective definition of being a member of a minority. Under the new law, individual members of a minority have the right to spell their names and surnames according to the orthographies of their own language, to learn the minority language and to use it freely in public and private life. In communes (the lowest local administrative territorial unit) where the minority comprises more than 20 percent of the population, its language may be used as a supplementary language in public offices and used in the names of localities, sites, and streets.¹²⁵ Public authorities are obliged by the law to support cultural, publishing, and educational activities of minorities, including through subsidies.

The issue to pass a special act on the protection of minority rights, was first raised back in 1990 by Jacek Kuron -- who at the time was minister for social welfare in Poland's first post-Communist government, as well as being of part-Ukrainian descent -- but it took over 14 years for the legislation to be drafted and enacted.

It also obliges public authorities to support minorities and this act moved issues of minorities from the Ministry of Culture to the Ministry of Interior and Administration, which received some criticism from minority communities. Within the Ministry of Interior that is in charge of minorities currently, the Department of Religious and National-Ethnic Minorities is responsible for minority issues.

There is also an act on Polish language that actually repeats what the constitution declares that the act on Polish language cannot violate the rights of minorities. The 1991 Act on Education is of particular importance, because it guarantees the maintenance of national, ethnic and religious identities and schooling of the minorities' language and history and culture.

Among the institutions in charge of minorities the National Minority Assembly needs to be mentioned in particular. This Assembly is an advisory body of the prime minister and the two subassemblies working with this assembly – this is the Subassembly on Ethnic and Minority Education and the Subassembly on Roma Issues – play important role in preparing decision-making, however the Assembly does not have any formal powers. There is also a joint

¹²⁵ With the exception of those names which were given by the Third Reich or the USSR between 1933-45.

commission of the government and national and ethnic minorities that was created by the act on minorities in 2005 and its main aim is to maintain cultural heritage and to protect minority rights. Poland ratified the Framework Convention for the Protection of National Minorities in 2001, and signed, but did not ratify the European Charter for Regional or Minority Languages.

In sum, political transition in Poland was successful also for minorities, inasmuch it opened the path for legal recognition of minorities and made possible the development of legal protection of minority rights. Nevertheless the majority public opinion is still many times hostile to the recognition of minority rights and the implementation of legal guarantees of minority rights could be still improved.

Slovakia

The Slovak laws do not offer any criteria for the definition of minorities. But a semi official list was prepared as late as 1999 when Slovakia ratified the European Charter for Regional or Minority Languages and in the Language Charter declaration each state party has to name which ethnic or national minorities groups these provisions referring to on its territory. These minorities were invited to participate at the Council on National Minorities attached to the government's office. Based on these semi-official recognitions of minorities, Bulgarian, Czech, Croatian, German, Hungarian Moravian, Polish, Roma, Russian, Ruthene and Ukrainian can be considered as official minorities in Slovakia.

The Slovak Constitution recognised under Art. 33 and 34 the right to free choice of identity and the basic individual minority rights to use minority language in education, and to preserve and maintain minority cultures.

With the ratification of the European Charter for Regional or Minority Languages in June 2001, Slovakia has become party to all major international minority rights instruments. Slovakia ratified the Framework Convention for the Protection of National Minorities in 1995. Since 1998, the Slovak government has established an institutional framework for realising the rights outlined in these documents, including a Deputy Prime Minister for Human Rights, National Minorities and Regional Development, a Plenipotentiary for Roma Issues, and an Ombudsman's Office. Besides the two international treaties, Slovakia signed also bilateral agreements affecting minority rights, probably the most important among these is the treaty signed in 1995 between Hungary and Slovakia. The development of internal legislation on minority rights started only after the 1998 elections, when a new democratic government entered in office. Previously, under Mr. Meciar's government Slovakia was harshly criticized by the international organisations for introducing non-democratic mechanisms and for violating human and minority rights. To overcome this political heritage and to put back Slovakia on the track of European integration, the new parliament adopted in 1999 an Act on the Use of Languages of National Minorities. This law regulates the language use of national minorities living in Slovakia only in their "official contacts" with local self-governments. The law guarantees the right of national minorities to submit written requests to local administration; the right of local administrative authorities to distribute official forms in minority language "on request"; the right of local administrative bodies to conduct meetings in a minority language "if all present at the meeting agree"; the right of municipalities to keep records also in minority language; and the right to display important information in public areas also in the minority language.¹²⁶ The largest minority community, the

¹²⁶ For a detailed analysis of the law see F. Daftary and K. Gál: The 1999 Slovak minority language law: internal or external politics? in: Daftary-Grin (eds.) *Nation-building and Language Politics in Transition Countries*. Budapest:

representatives of Hungarian minority often critiqued the law for its limitative approach (it does not provide any rights at regional or national level for minorities and in many regards it restrictive in the use of minority language at local level as well), nevertheless the Hungarian party was a member of the coalition when the law was adopted.

Regarding the Roma community, the in 1999 the government adopted a Strategy for Roma,¹²⁷ which was aimed at improving the social circumstances of Roma population and to facilitate their social integration. While the Strategy was later regularly updated, it had quite poor results in practice. In sum, the legal and political instruments developed in Slovakia have been strongly influenced by the expectations of international organisations. The process of accession to the European Union – after the failure of Meciar-government – was a very powerful force in pushing the Slovak political elite towards the accommodation of minority claims. Nevertheless this process remained unfinished, and recent developments, following the Slovakia's access to the EU in 2004 and especially after the change in government following the 2006 elections raised particular concerns about the government's political intentions in limiting existing minority rights mechanisms.

IV. MINORITY POLICIES AND EUROPEAN INTEGRATION

Among the four states under analysis at the workshop, Slovakia was probably the most influenced by the process of European integration in developing its own legislation on minority rights.

In general terms the interest of international organisations in the treatment of minorities has been significant in domestic policy and legal developments. Their role in closely following and evaluating the practice of single states in the light of international standards has become very important for these countries both in their external relations and for their policies towards minorities living within their territory.

The international community formulated not legal, but political concerns regarding the situation of minorities within the framework of extending institutional relations between CEE states and the Council of Europe, NATO, and the EU. Especially the European Union has gained huge prestige respect to the procedures established for the purpose of implementing international minority rights standards within the Council of Europe. Or in other words, the efficiency of these specific procedures and mechanisms many times depend greatly on their reinforcement by the institutional policies of NATO, and the EU towards CEE states. The activities of international organisations in this regard however are not strictly norm-guided, but appeared to be driven by looser policy-driven mechanisms.

The European Union in this regard, however, applied a unique approach: despite the lack of its own internal mechanisms and measures to survey or control minority rights protection, it continuously monitored the situation of minorities in candidate states as an integrated segment of its conditionality policy under the institutional mechanism for supervising candidate states' progress made towards membership. Taking minority rights protection into account on the enlargement agenda in an institutionalised form within the EU, was therefore a very new development both in its implementation of the membership process and on its consequences for candidate states and also for the EU integration process.

LGI-ECMI, 2003. pp. 31-72.

¹²⁷ See also the relevant reports of EUMAP. www.eumap.org

In Hungary the development and implementation of specific policies for the Roma could be seen as directly influenced by EU accession, as this strategy focused on combating discrimination in education and on improving social integration, goals which were regularly formulated by the European Commission as well.¹²⁸

The Czech Republic received similar criticism on its discriminatory practices towards the Roma. And the adoption of new policies aimed at improving the situation of socially marginalised Roma communities was strongly solicited by the EU.¹²⁹

In Slovakia, as a response to Meciar's anti-democratic policy, the European Union suspended accession negotiations, so in this case for the new democratic government in 1998 it was of primary importance to improve radically the legal protection of minorities, as it was reflected in the adoption of the 1999 Act on minority languages. Nevertheless new policy strategies adopted for the Roma seemed to be less effective.

In the case of Poland minority issues remained marginal during the accession process.¹³⁰

In general we can conclude that European integration process was important in developing new legal and political instruments, but it also turned out during the workshop that EU accession often diminishes national governments' attention to minority problems.

V. CONCLUSIONS

Based on the presentations of the workshop and the discussion, the following conclusions can be drawn on the situation of minorities in the 'Visegrad Countries':

- The participation of minorities in the transition process was uneven in the four countries under observation, while the Hungarian minority played an important role in the process in Slovakia, in other states **political participation of minorities was very weak**. Furthermore large number of people belonging to minorities, especially among the **Roma, suffered the economic and social changes of transition**, their social marginalisation worsened and governments were usually not capable to answer these problems.
- One important lesson learned from the transition process is that the level of democracy, the **development of internal democracy plays an important role also in tackling minority problems**. Legal instruments alone cannot be sufficient without a clear and stable democratic background in support of tolerance and minority rights protection.
- It also turned out that besides domestic developments, **international organisations** had an outstanding **influence in norm-setting** in the field of human and minority rights protection. International influence was usually indirect, but legal and political documents adopted at international level on minority rights were often accepted as basic standards for CEE states.
- Another important experience is that **national legislations do not appropriately differentiate between minority communities**. For example in Hungary, and to less extent also in Poland, significant problems root in the need that different minorities need different treatment and generalized legal instruments are not able to answer these differences many times. This means that there are groups that are left out from the legal protection, there are other groups which have no real access to the specific minority rights while for other

¹²⁸ See the EUMAP Report on Hungary (2001, 2002) www.eumap.org

¹²⁹ See EUMAP Report on the Czech Republic (2001, 2002) www.eumap.org

¹³⁰ See EUMAP Report on Poland (2001, 2002) www.eumap.org

minorities, especially for the Roma in Hungary the legally protected cultural minority rights are inappropriate in improving their social situation. Diversity of ethnic communities may well need divergent approaches and unfortunately, at least in Central-Eastern-European countries these divergent approaches are rarely present at this time on the level of government policies.

- A perspective conclusion is based on the experience of the past years, following the enlargement of the European Union in 2004. The former influence of the EU in developing minority rights standards has faded away after accession, and it is now a common lesson, that **EU accession alone does not resolve minority problems**. Furthermore national governments often tend to disregard minority claims more after EU accession than during the enlargement process, when their performance was monitored in this field. Such practices may raise particular concerns among the representatives of minorities.

B) Eastern Europe and the Baltic States (Tallinn)

Prepared by Kristina Kallas, Regional expert

I. INTRODUCTION

Process of democratic transition in post-communist Europe is characterised by severe disruptions of former social and economic structures and collapse of planned economy system. Transition to democracy has not affected all social groups equally. Ethnic minorities have been usually among the losers in this process. Unemployment rate among minorities tends to be higher compared to majority population. Similarly minorities tend to evaluate the effects of transition to their social status more negative. In political life the popular fight against authoritarian regime was supported by minority groups and in some countries first years of transition were characterised by the inclusion of minority representatives in political activities of the state, then with the progress of democratization a gradual decrease of the role of minorities in politics can be noted.

ICDT, International Centre for Democratic Transition, with financial support from Swiss Federal Department of Foreign Affairs and King Baudouin Foundation has established a project to analyse the situation of minorities in transition process in Central and Eastern Europe. A preparatory workshop took place in Tallinn, Estonia on March 30, 2007. The aim of the workshop was to explore the role that national minorities have played in the process of democratic transition in Eastern Europe (Moldova, Ukraine and Belarus) and Baltic States and to map the situation in the area of the development of minority rights, local government models, different forms of autonomy and the application of international standards during and after the process of transition.

Countries in the region of Eastern Europe (Belarus, Ukraine and Moldova) and Baltic States (Estonia, Latvia, Lithuania) are characterised by the presence of large group of Soviet-time immigrants of mainly Russian origin in each of those countries. Although the ethnic origins of Soviet-times immigrants (as well as so called historic minorities) are diverse, the dividing line in the area of minority issues usually runs between titular nationality and Russian-speaking group. The one exception here is Belarus where the division line is not strongly pronounced in politics or everyday life of its citizens.

Additionally, ethnopolitical situation in the region and majority-minority relations in transition process are heavily influenced by historic period of Soviet nationalities policies. Russian Federation plays important role as a kin state in minority-majority relations in all countries in the region. Although the level of so called securitization of minority issues varies from country to country, it is evident that Russia as a player in minority issues in transition process is present in all those countries.

Current report presents the main issues discussed during the workshop and summarises the issues of main concern in the area of minority rights and policies in Eastern Europe and Baltic States.

II. ROLE OF MINORITIES IN THE PROCESS OF TRANSITION

Largest share of Russian-speaking Soviet era immigrants live in Estonia, Latvia and Ukraine. People with minority ethnic background constitute about one third of population of **Estonia**. Among them largest group are Russians (26%) followed by Ukrainians (2%) and Byelorussians (1%) who all represent Soviet-time immigrants. The share of ethnic minorities has decreased from 38% in 1989 to 32% in 2000 due to various reasons ranging from re-emigration to Russia and emigration to other parts of Europe to general low birth rates.

Position of minorities in Estonia during the transition period can be characterised by the process of gradual social and political exclusion. As a result of 1992 Citizenship Act around 450 000 people, mostly of Russian ethnic background were excluded from political participation on the basis of restitution principle. This principle established citizenship rights to direct descendants of pre-Soviet Estonian Republic (1918-1940) thus leaving all Soviet-time immigrants in the legal vacuum for the time of first elections to Estonian parliament in 1992. As a result, first post-soviet parliament of Estonia did not have a single minority-background representative. In 1993 Estonia adopted controversial Aliens Act that established that all Soviet-time immigrants who did not wish to naturalise should apply for residence permits. Today, the number of people who do not possess citizenship of any country (so called stateless people) constitute about 10% of the total population of Estonia. In addition, another 10% are citizens of Russian Federation. These two groups, in total around 20% of population, are excluded from the full political participation.

During transition period a strong ethnic mobilisation of Estonians took place that was not equally balanced by political mobilization of minorities. Even today ethnic political parties play marginal role in political process and development of active civil society organisations among Russian-speaking minority is weak. Political participation index for Russian citizens and stateless people is rather low. According to recent integration monitoring report 77% of stateless respondents and 81% of Russian citizens stated no participation in political life of Estonia. Comparatively, among Estonian citizens with titular nationality background only 38% declared no participation in political life. The rate is higher for people with minority background who hold Estonian citizenship (35%).¹³¹

Minorities generally feel exclusion from political and social life of Estonia also based on their linguistic differences, mainly through poor command of official language. Linguistic skills play important role also in labour market where according to Estonian Labour Force Surveys of 1989-2003 show that non-Estonians are over-represented in elementary occupations and under-represented in managerial positions. The overall process of political exclusion, linguistic aspects and social exclusion from labour market based on it have resulted in overall socio-political marginalisation of Soviet era Russian-speaking minority.

Situation of minorities is similar in neighbouring **Latvia**. The share of national minorities that include Soviet-time immigrants as largest group is highest in the region constituting 42% of total population of Latvia. Similarly to Estonia the largest minority groups are Russians (30%), Byelorussians (4%) and Ukrainians (3%). In addition, the political transitions process in Latvia resulted in similar way as in Estonia by excluding Soviet-time immigrants from political participation. However, differently from Estonia the share of Russian Federation citizens in Latvia is lower.

¹³¹ Hallik, Klara (2005). „Kodakondsus ja poliitiline kaasatus”. Uuringu *Integratsiooni monitooring 2005* aruanne. TLÜ Rahvusvaheliste ja Sotsiaaluuringute Instituut. 71.

As a result of political exclusion the rate of political participation of minorities continues to be low. Participation of minorities in parliamentary and local elections is significantly lower compared to majority Latvians. Similar tendency can also be noted in all other areas of political activity such as organisation of political campaigns, meetings with politicians as well as holding discussions on social, political or local development issues.¹³² However, in many areas such as education and career development Russian-speaking minority has accepted adaptation strategy. According to Aasland (2006) differences between ethnic groups both in terms of material welfare and level of social integration are not significant. In income and consumption levels Russian-speaking minority is only slightly disadvantaged compared to ethnic Latvians.¹³³ However, during transition process of 1990ies minorities have felt more insecure in the labour market than ethnic Latvians. There is still a considerable degree of ethnic segregation in the labour market with certain sectors of economy featuring overrepresentation of titular group and others of ethnic minorities.¹³⁴ Certain degree of political and social exclusion can be discerned from the fact that there is a dominance of ethnic Latvians in the higher positions in public administration. One of the crucial factors contributing to social and political exclusion of minorities is similarly to Estonia a proficiency in official state language.

In third Baltic country **Lithuania** the share of national minorities is lower constituting around 16% of total population. Largest minority groups are Poles (6.7%) and Russians (6.3%) followed by Byelorussians (1.2%). Position of minorities in transition process varied over time and differed between particular minority groups. In early phase of national independence inclusive approach prevailed and people with minority background were sought for support. In 1990s the role of minority as a mediator between cultures was a popular image. This role was especially assigned to Tatars, Karaims and Jews while other minorities were treated as objects rather than subjects in state policies. With transition passing its peak the symbolic importance of minority representatives decreased. Role of minorities is diminishing in party politics, participatory politics as well as in symbolic politics. At the same time general acceptance of minorities is also decreasing accompanied with diminishing role of minority issues in political agenda and marginalisation of minority groups.

In Lithuania transition period was characterized with problems of social adaptations of minorities. Results of adaptation survey of 2001-2002 show that civic and political activism and voter turnout was low compared to majority population. In addition minorities represent ethnically isolated segments in labour market accompanied with general higher unemployment rate among minorities compared to majorities. Overall perception of change in social status is negative among minorities. Compared to ethnic Lithuanians share of people among Russian and Tatar minority groups who perceive the change of their social status as negative is higher than those who see change positively. Among Poles and Jews the change is generally perceived less negatively, however, also these groups are less optimistic about their social position compared to ethnic Lithuanians.¹³⁵

Thus differently from Estonia and Latvia Lithuania did not pursue official policy of political exclusion of national minorities (so called restitution policy) and initially support for minorities

¹³² Research „The Quality of Life in Latvia” conducted in 2005 by T. Tisenkopfs.

¹³³ Aasland, Aadne (2006). „Russians and the Economy”. In *Latvian-Russian Relations: Domestic and International Dimensions*, edited by Nils Muiznieks. 62.

¹³⁴ Ibid.

¹³⁵ Kasatkina N., Leonėikas T. (2003) Lietuvos etninio grupio adaptacija: kontekstas ir eiga (Adaptation of Lithuania's ethnic groups: Context and Process). Vilnius: Eugrimas. 285.

was sought in politics. However, with time the inclusion process changed and general acceptances of minorities has diminished. During transition process social adaptation of minorities was problematic with higher unemployment rates for minorities and overall negative perception of change.

Ukraine started its nation-building process with a multiethnic population characterised by several territorialised ethnic communities, facing the problems of securing recognition of highly contested borders, and with a significant cleavage between its western and eastern regions. Ukrainians in 1989 were a clear numerical majority in the republic, amounting to 72.7% of the total population. Among other nationalities 22% were ethnic Russians and more than 30 nationalities numbered over 5,000, with the most numerous being Jews, Byelorussians, Moldovans, Bulgarians, Poles, Hungarians, and Romanians. By 2001 the share of Ukrainians has increased constituting 77.8% of total population. This has resulted from emigration of ethnic minorities on the one hand and self re-identification of persons belonging to national minorities on the other hand. This way the number of Romanians has increased on expense of the decrease of the number of Moldovans.

Additionally, recent research indicates that the country is characterised by the presence of dual identities and bilingualism: 57% of the population self-identifies only as 'Ukrainian', 11% only as 'Russian', while about 26% show a dual identity in that they affirm to self-identify as both 'Ukrainian' and 'Russian'.¹³⁶ The division lines based on ethnicity and language are not so clear in Ukraine as for example in Baltic States.

During the early transition period the process of democratization and nation-building enjoyed strong support from representatives of national minorities. National minorities were sought for support and new administration was eager to establish minority-friendly regime. So called "zero-option" for citizenship was chosen and the Law on National Minorities was adopted in 1992 being first among post-communist countries.

Political activism of minority groups is high, especially compared to Baltic States. Crimean Tatars successful participation in political life has become possible due to the unique experience of self-organisation and mobilisation. However, these self-government bodies are not officially recognised by Ukrainian legislation. Other minorities, mainly Hungarians and Romanians in Transcarpathian region are well-represented in regional, district and city councils. Connected to the problems of dual identities and the fact that there are de facto two state-forming nations, Ukrainians and Russians, political mobilisation of mainly Russian-speaking population remained low. Additionally, politically motivated manipulations of minority issues do rise periodically, especially before and during election campaigns. The most widespread provocative issue is the status of Russian minority and Russian language.

Tensions rise high in Crimean peninsula. This part of Ukraine with its dominant Russian-speaking group and returning Crimean Tatars has remained most problematic today. Democratic transition is hindered by activities of extremist groups claiming the right of Russian Federation to peninsula and hindering the process of democratic consolidation.

Process of economic and social transition hit hard majority and minority groups equally. However, some minority groups such as Roma and returning Crimean Tatars have faced serious socio-economic problems. These groups are regularly disadvantaged in labour market compared

¹³⁶ Ethnic Conflict and Migration in Europe. First Report of the Ethnobarometer Programme. CSS – CEMES, <http://www.ethnobarometer.org/pdf/rep01.pdf> (accessed 07.04.2007)

to other nationalities. Unemployment is a problem affecting Ukrainian society at large however, it appears to affect disproportionately persons belonging to national minorities. This is partially due to the fact that a large number of persons belonging to national minorities are concentrated in areas with particular severe economic difficulties such as Transcarpathia and Crimea. The unemployment rate amongst Crimean Tatars is extraordinarily high.

In **Belarus**, the clear distinctions between national majority and minority are hard to draw. People who declared their nationality to be Byelorussian constituted 81% of population followed by Russians (11%), Poles (3.9%) and Ukrainians (2.4%). However, according to 1999 census only 45% of people identifying themselves Byelorussians were able to speak their native language, Byelorussian. During the transition process self re-identification of minorities and majority took place similarly to processes in Ukraine.

In **Moldova** a similar process of re-identification took place. In 1989 Moldovans constituted 64.5% of total population of republic, while in 2005 the share has increased to 71.5%. Among minorities the largest are Ukrainians (11.2%) followed by Russians (9.4%) and Gagauz people (4%).

III. SITUATION OF MINORITIES TODAY: INSTITUTIONS AND LEGAL INSTRUMENTS

Legal framework of post-communist **Estonia** is derived from the principle of *restitution ad integrum* that declared the period of Soviet regime as occupation and restored the legal framework of Estonian republic of 1939. As already stated earlier, this principle declared a citizenship rule that left majority of Soviet time settlers without citizenship of Estonian Republic. Aliens Act, that was adopted in 1993 and that envisioned registration of all citizens of former Soviet Union who resided in Estonia and did not possess the citizenship of any other country as foreigners, created a big political crises in the country and diplomatic crises with Russian Federation. Secession referendums in Narva and Sillamäe, eastern parts of Estonia with strong Russian majority were declared illegal by Estonian government and open inter-ethnic conflict was eventually avoided with OSCE negotiations.

Constitution of the Republic of Estonia adopted in 1992 declared that every person in Estonia has the right to preserve their ethnic identity and also included article about non-discrimination. Preamble of constitution, however, declared that the state shall guarantee the preservation of the Estonian nation and culture through the ages where Estonian nation refers to ethnically Estonian people.¹³⁷ This statement in preamble guarantees collective rights to ethnic Estonians while other ethnic-cultural groups are mainly provided for individual rights.

Article 52 of the Constitution sets Estonian language as the official language of the state and Estonian Language Act (1989, 1995, changes in 1999) specifies the rules of applicability of official language. According to constitution, in locations wherein the majority of the population speaks a language other than Estonian, the authorities of the local government can apply for special permission from government to disseminate information and reply to inquiries in local language.

¹³⁷ This interpretation is based on Estonian language where „eesti rahvas” written with small letter as it is in preamble refers to ethnic Estonians. „Eesti rahvas” with capital letter would refer to all people residing in the territory of Estonian Republic.

National Minorities Cultural Autonomy Act (1995) that is often cited by Estonian politicians as an example of fair and equal treatment of all ethnic groups in the country was adopted with slight changes from the act of 1925. Definition of national minority is restricted only to citizens of Estonian republic who consider themselves to be linguistically, culturally, historically or ethnically different from majority of population. Applicability of this law is thus very narrow as major part of Russian-speaking people do not possess Estonian citizenship.

Presidential Roundtable on National Minorities has function with some success as a representative body of minorities, however, its influence on political process has been rather limited.

Concerning international legal instruments, Estonia has ratified Council of Europe Framework Convention for the Protection of National Minorities (CoE Framework Convention) in 1998. Major criticism of advisory committee is directed to abovementioned restrictive definition of national minority and ineffectiveness of cultural autonomy act. Estonian authorities' attention has been also drawn to almost non-existent consultation of state with independent bodies representing minorities and different aspects of Estonian language enforcement regulations, especially in public.

In **Latvia** there has been progress in the area of legal protection of minority rights, however, in some areas the process has gone rather backwards. In Latvia, as in Estonia, large group of Soviet time settlers (730 000 people in 1991) remained stateless after establishment of citizenship policy based on restitution principle. The number of stateless people has slowly decreased since then, however, it still remains high and the problem of statelessness has been brought to attention of Latvian government by many international observers.

Law on Cultural Autonomy was adopted in 1999 through which cultural associations of national minorities can request state financial contribution to their activities.

Latvian National Human Rights Office (LNHRO) was established in 1995. It is an independent state institution that promotes the observance of human rights in Latvia including issues connected to minority rights. Starting from January 2007 the office has been reformed into Ombudsman institution. National integration policy is implemented through the Secretariat of Special Assignments Minister for Social Integration assisted by Latvia's Society Integration Foundation.

Latvia ratified CoE Framework Convention only recently, in 2006 (signed in 1995). Definition of national minority in Latvia is less restrictive than in Estonia and includes also stateless persons. National minorities are defined as citizens of Latvia who differ from Latvians in terms of their culture, religion or language, who have traditionally lived in Latvia for generations and consider themselves to belong to the State and society of Latvia, who wish to preserve and develop their culture, religion or language. Persons who are not citizens of Latvia or another State but who permanently and legally reside in the Republic of Latvia, who do not belong to a national minority within the meaning of the Framework Convention, but who identify themselves with a national minority that meets the definition, shall enjoy the rights prescribed in the Framework Convention, unless specific exceptions are prescribed by law.

Neither Latvia nor Estonia has ratified European Charter for Regional or Minority Languages.

Lithuania was among the first post-Soviet states that adopted Law on National Minorities in 1989 and a year later a government's Department of Nationalities was created, a first ministerial-level organisation of its kind in the former Soviet Union.

Lithuania's Constitution, adopted in 1992, stresses both, the guaranteed rights of individuals, regardless of nationality as well as rights of national communities. The Law on National Minorities guarantees the rights of national minorities to receive state support for the development of their cultures and education. Council of National Communities, an organisation composed of delegates from minority associations and affiliated with the government's Department of Nationalities has proposed several modifications to Lithuania's language and education policy that have been implemented. Communities where minorities constitute more than half of the population, people belonging to national minorities have the right to use their native language along with Lithuanian in offices and organisations. Amendment to Law on National Minorities enabled minorities to be educated in their native languages with state support of native-language schools and special provisions to train national specialists in institutions of higher education.¹³⁸

The law on citizenship (1991, amended in 1997) grants **Ukrainian** citizenship automatically to all citizens of the USSR, who at the moment of the declaration of independence reside in the territory of Ukraine. Thus citizenship issue has not created significant problems in Ukraine. Nevertheless, language remains the issue of concern between majority and minority. 1996 constitution states that Ukrainian is the sole state language without mentioning bilingualism or the parallel use of Russian as an official language. However, the 1992 Law on National Minorities provides that in areas where other nationalities form the majority of the population, their national language can be designated as official language. De facto the use of certain minority languages, such as Russian, Hungarian and Romanian is accepted in contacts with administrative authorities in a number of municipalities inhabited by a substantial number of persons belonging to the national minorities. Language law also provides a possibility to introduce place names in a minority language if the minority in question constitutes a majority in the locality. This provision has been used by Hungarian minority in Transcarpathia region, however, the problem rises with Crimean Tatars who do not meet the numerical threshold required for implementation of this provision in Crimea.

Articles of Constitution declare non-discrimination policy of Ukrainian state. Members of national minorities in Ukraine are present in regional Councils of Peoples' Deputies and in organs of local self-government. The State Committee for Nationalities and Migration with its 24 branches is the central executive body in the fields of national minorities rights, international relations, issues related to the Ukrainian diaspora and migration. In 1996, a Council of Representatives of Civic Communities of National Minorities was created, attached to the abovementioned State Committee, as a channel of communication and co-ordination between the state and the national minorities representatives. It includes representatives of 23 national minorities organisations that have an all-Ukrainian status.

The Council of Representatives of Public Organisations of National Minorities by the President of Ukraine is a consultative body of national minorities. However, this body is convened only rarely and it does not constitute a forum for regular and frequent consultation and dialogue on issues pertaining to national minorities. Council of Representatives of Crimean Tatars, set up by

¹³⁸ Resler, Tamara.J (1997). „Dilemmas of Democratization: Safeguarding Minorities in Russia, Ukraine and Lithuania.” *Europe-Asia Studies*, Vol 49 (1). 102.

presidential decree in 1999, is a well-functioning forum for discussion on issues pertaining to Crimean Tatars.

Structure of state bodies dealing with national minorities has been in constant flux in Ukraine over the past years. This has had a negative impact on the effectiveness and consistency of their work.

In the area of international minority protection treaties, Ukraine has ratified Council of Europe Framework Convention for the Protection of National Minorities in 1997 and European Charter for Regional or Minority Languages in 2003. Ukraine has signed bilateral agreements of friendship and co-operation, containing provisions for joint responsibility for the protection of rights of respective national minorities, with all seven bordering states. Moreover with two bordering states (Hungary since 1991, Slovakia since 1994) and with Lithuania (since 1997), Ukraine has established standing intergovernmental commissions composed of representatives of ministries and other institutions with responsibility in the sphere of minority policy.

The main areas of concern include outdated or still lacking pieces of legislation relating to protection of minority rights and strategic course of Ukrainian ethnopolitics. It is accompanied with unsatisfactory implementation of existing laws, low awareness among national and regional authorities and public at large of the necessity to make further steps in protecting minority rights, and insufficient attention to negative trends and developments revealing growth of xenophobia within Ukrainian society.

Moldova has regularly been presented as a good example of minority rights protection in post-communist space. Moldovan institutional structure has been characterised with large number of bodies dealing with minority issues during period of transition in 1990ies to 2001. There was Department of Interethnic Relations, Parliamentary Committee for Human Rights and National Minorities, Commission for Interethnic Relations by the President of the Republic of Moldova and Board for Minority Education within the Ministry of Education. In addition, Inter-Ethnic Studies Institute within the Academy of Science of the Republic of Moldova was conducting research in the area of interethnic relations and minority rights.

Moldovan national legal framework for the protection of national minorities was similarly extensive ranging from basic protection enshrined in Constitution of the Republic of Moldova adopted in 1994, Law on Languages Functioning on the Territory of Moldova (1989), Law on Citizenship, Law on Rights of Persons Belonging to National Minorities and the Status of their Organisations (2001) to decrees of the President of the Republic of Moldova on Further Development of Ukrainian, Russian, Jewish, Bulgarian and Roma Culture in Moldova (1991-1992). Law on National Minorities of 2001 has sought to improve and extend the relevant legal framework and made practical efforts to support national minorities in the fields of culture and education.

However, starting from 2001 a significant decrease in the number of institutions dealing with minority issues has appeared. Parliamentary committee as well as presidential commission have ceased to operate as well as board dealing with minority language education. Ethnobarometer programme research has concluded that measures taken to ensure a more balanced use of the various minority languages in schools, in the media and in relations with administrative authorities have not produced the intended results.¹³⁹

¹³⁹ Ethnic Conflict and Migration in Europe. First Report of the Ethnobarometer Programme. CSS – CEMES, <http://www.ethnobarometer.org/pdf/rep01.pdf> (accessed 07.04.2007)

In area of international minority protection Moldova has again been set as a positive example. Legislation of rights of minorities is generally in accordance with the international standards. Country has ratified CoE Framework Convention as well as European Charter for Regional or Minority Languages. In addition, OSCE instruments - the Oslo Recommendations Regarding Linguistic Rights of national Minorities and the Hague Recommendations Regarding Educational Rights of national Minorities - have been ratified by the state.

However, as in the case of Ukraine, the implementation of legal provisions, national as well as international remain insufficient. There is insufficient monitoring of the situation of minorities by the authorities, inadequate programming of socio-economic and political integration and inadequate allocation of financial resources and in some cases a lack of political will, particularly at local level to deal with the protection of minority rights.

The question of Transdnistria remains a serious concern, especially since this conflict affects a great many developments, political and others, of importance to the whole population of Moldova.

Belarus made first steps in the area of protection of national minorities already in 1992 by adopting Law on National Minorities. It establishes the definition of national minorities (Art.1.) as following: national minorities are persons permanently residing on the territory of Belarus, having Belarusian citizenship whose origin, language, culture or traditions are different from those of main population of the republic.

Similarly, Constitution of Republic of Belarus gives guarantees for the respect of rights of minorities and equality before the law of people belonging to different ethnicities. Additionally, constitution guarantees freedom of language choice. Legislation on national minority rights is monitored by State Committee on Regions and Nationalities under the Council of Ministers of the Republic of Belarus.

Members of minority groups are granted personal autonomy. Most active in public sphere is Polish minority that has united under Union of Poles in Belarus (UPB). This association unites 75 organisations as well as 17 so called Polish houses. Activities of public associations of minorities are financed from state-run bodies, mainly local budgets.

Belarus has ratified the Framework Convention of CIS countries for protection of national minorities in 1994. However, it has not ratified CoE Framework Convention nor European Charter for Regional or Minority Languages.

IV. MINORITY POLICIES AND EUROPEAN STANDARDS

Among countries of the Eastern Europe and Baltic States **Estonia** has the longest experience in developing and implementing national integration programmes directed at resolving the situation of divided society inherited from Soviet past and encouraging intercultural dialogue. First national document laying down the principles of state's approach to society's integration problem was adopted in 1998. In the same year, national foundation – Non-Estonians Integration Foundation – was created. The task of the foundation is to initiate, support and coordinate projects aimed at the integration of Estonian society. A comprehensive state's integration programme was developed for period of 2000-2007. The programme declared an Estonian model of multicultural society to be characterised by the principles of cultural pluralism and the preservation and development of the Estonian culture. Its main focus was, however, on teaching Estonian language to Soviet-time settlers. New national integration programme for period 2008-2013 is currently under development and will be presented to government by the end of 2007. Differently from previous programme new policy aims at re-focusing from language teaching towards social and economic cohesion, including political integration of whole society. The model of multiculturalism adopted by state programme is based on John Rex's concept of multiculturalism where society that is unitary in public sphere but tolerant regarding differences in private sphere. The new definition of integration focuses on equality of opportunity, promotion of participatory democracy, takes into account Estonia's regional differences, focus on young people and development of sense of security for all national groups that should form the basis of successful integration.¹⁴⁰

Latvia has developed its national integration programme *Integration of Society in Latvia* in 2001. The need for integration programme was acknowledged by government is stated in the programme document:

“National development may be significantly hindered if alienation persists between the individual and the state, between different parts of society, and between the society and the state. Integration of society, therefore, has become a matter of urgent necessity.”¹⁴¹

Social integration has been divided into sub-areas of (1) political integration, (2) social and regional integration, (3) education, language and culture, and (4) information including media and support for science. Main criticism of minority groups towards state policy has focused on rather assimilatory character of policy measures of the programme.

European Union has been one of the major financial supporters for integration policies of Estonia and Latvia. During EU accession process serious dialogue on the issues of political integration (especially the issue with stateless persons) in Estonia and Latvia was taken up by EU and Phare and other aid money was directed to solving these issues. EU continues to be one of the major financial sources of integration policy and process in those two countries.

Lithuania has developed its first comprehensive national integration programme only recently. However, governmental support for minorities has been one of the policy lines from the re-establishment of independence in 1991. Different policy initiatives have been directed towards integration of national minorities into the economic, political and cultural life of Lithuania.

¹⁴⁰ For more comprehensive report on conceptual approach of Estonian national integration programme see Vetik, Raivo (2007). *Eesti ühiskonna integratsiooniprogrammi 2008-2013 üldideoloogia kontseptuaalne põhjendamine*. <http://www.meis.ee/est/raamatukogu/uuringud> (accessed 15.04.2007).

¹⁴¹ National Programme „The Integration of Society in Latvia” (2001). 7

Integration is here defined in opposition to assimilation. Integration approach encourages the minority groups to retain their specific identities and traditions, but on the other hand help them to participate in society in equal footing with majority group and thus decrease the economic and educational disparities between different nationality groups. Minority groups have actively participated in the formulation of Lithuania's integration policy mainly safeguarding their right for cultural autonomy and resisting the tendency towards assimilation.

Ukraine has not implemented any comprehensive national minority policy programme. During transition period, leaders of Rukh, the popular movement of Ukraine, argued that Ukraine should adopt a multicultural concept of the state. Such a concept would recognise Ukraine as multinational state with many different nationalities and a large Ukrainian majority rather than as a Ukrainian nation-state.¹⁴² Immediately after its formation in 1989 Rukh established a special Council of Nationalities and among the very first resolutions it passed was one condemning anti-Semitism and denouncing the act of deportation of the Crimean Tatars in 1944.

However, in later period of transition the move towards conception of Ukraine as a nation state for Ukrainian nation dominated and Ukraine became essentially Ukrainian state with national minorities. The Law on National Minorities adopted in 1992 is one of the state policy instruments in supporting national minorities. The law calls for budget support for national minorities for their cultural activities as well as for preserving their identity and it guarantees the right of minorities to national-cultural autonomy. The latter principle is nevertheless formulated in an extremely general fashion and the content and merit of this concept needs to be defined and developed in more detail. In addition, national and especially Crimean authorities have been unable and sometimes unwilling to meet the demands of Crimean Tatars for funding for their social and cultural needs.

Serious problem remains concerning the insufficient state concern and lack of policies targeted at improving the situation of Roma minority. Roma people suffer from discrimination, low level of education, high unemployment, difficult or even lack of access to medical services and very poor housing conditions. The Advisory Committee of CoE Framework Convention notes with concern that the societal attitudes towards Roma remain negative, and sociological studies suggest that the prejudice towards Roma are markedly widespread than towards persons belonging to other nationalities. Ukrainian government has been urged to design initiatives in sphere of Roma education to combat the problem of low attendance figures for Roma children at all levels of education.¹⁴³

The inefficient collection of reliable socio-economic and political data, broken down by age, gender and location hinders effective monitoring of minority situation in Ukraine and subsequently development and implementation of comprehensive state programmes.

¹⁴² Resler. 96

¹⁴³ See for more information on Advisory Committee on the Framework Convention for the Protection of National Minorities Opinion on Ukraine, 2002. ACFC/INF/OP/I(2002)010.

V. CONCLUSIONS

Based on presentations of the workshop and discussion, following conclusions can be drawn on the situation of minorities in Eastern Europe and Baltic States:

- Situation of minorities in transition process can be characterised by **gradual process of social and political exclusion**. In Estonia and Latvia majority of Soviet-era settlers did not receive automatically citizenship and thus remained excluded from political participation and situation continues with slow progress until today. In all countries of the region minorities were disproportionately severely affected by socio-economic changes. Thus the numbers of unemployment are higher among minority groups compared to majority population in all countries of the region. Especially serious socio-economic difficulties affect Roma communities in Ukraine and Moldova as well as Crimean Tatars.
- **Participation of minorities in political life during transition process has been generally lower** compared to majority. Although differences exist between countries in the region where support of minorities was sought by political parties in Ukraine and Lithuania while in Estonia and Latvia disfranchisement of Russian-speaking minority took place. Still in all countries **manipulation with minority issues** regularly takes place during election periods.
- Situation of minorities during transition period (including the very definition of who belongs to national minority) has been strongly **influenced by the previous decades of Soviet Union nationalities policy**. Ethnopolitical situations and tensions in interethnic relations in all countries of the region reflect the failures of Soviet policies in area of immigration and integration. Additionally, significant identity issues affect majority as well as minority groups in Belarus, Ukraine and Moldova, and to a smaller extent among Russian-speaking groups in Baltic States. The extent of politicisation of identity issue ranges from mild in Belarus to rather problematic in Ukraine.
- **Definition of national minority** is controversial and likewise affected by history of Soviet nationalities policy and immigration. Estonia and Latvia are reluctant to extend definition of national minority to Soviet-time settlers (Latvia though, has accepted more inclusive definition) and instead assign the normative description of immigrants to them, thus excluding large proportion of its population from the possibility to fully exercise rights granted to national minorities, i.e. practicing cultural autonomy. Ukraine on the other hand is unenthusiastic about defining Crimean Tatars as indigenous people as is often requested by this group itself. Thus, it can be argued that 3 different categories of minorities are present in the region: (1) indigenous people, (2) national minorities and (3) immigrants. However, attribution of those categories to groups of people is in many cases motivated by political concerns for struggle for power rather than objective criteria of historical belonging or least the demand by the group under question itself.
- All countries in the region highlight the **primacy of individual rights** and personal autonomy as the basis for guaranteeing the rights of minorities. In addition they all provide some degree of group-based rights. Group-based rights are either formulated in an extremely general fashion or restricted to only certain groups of national minorities by excluding others.

- Legal framework of minority rights protection can be characterised as satisfactory and meeting international standards in most of the countries of the region. However, the **problem of implementation** of these standards, in some cases local obstruction of implementation and political obstacles when putting guarantees for minorities into force occur as major problems while putting international standards into practice. Implementation problems are somewhat more significant in Ukraine and Moldova compared to Baltic States. In Estonia (and to some extent in Latvia) some of the initiatives to protect national minorities, such as the laws on cultural autonomy contain elements that are not suited for the present situation of minorities. Namely, the narrow definition of national minority excludes majority of Russian-speaking people from the right to use cultural autonomy law provisions.
- **Adoption of international laws pertaining to situation of minorities has been different in the region.** All countries with exception of Belarus have signed and ratified CoE Framework Convention. Belarus has ratified Framework Convention of CIS countries for protection of national minorities in 1994. Only Ukraine has signed European Charter for Regional or Minority Languages.
- **Language issue has become highly politicised** in Estonia and Latvia and gradually also in Ukraine. Conflicts have risen during transition period over the definition of state's official language, use of minority languages in public sphere and in local administrations where minority group constitutes majority.
- Due to ethnopolitical situation of 1991 and policies of the regimes of independent Estonia and Latvia, **integration issue has become extremely important in long-term sustainable development** of these societies. Both countries have implemented multi-annual national integration programmes with financial support from European Union. States' policies have been criticised by minority to be too assimilative in their character. The questions of **effective monitoring as well as basing policy decision on sociological data** have been raised in connection to those programmes. Lithuania has followed the suite and developed all-inclusive national integration programme just recently. Other countries in the region, notably Ukraine and Moldova have a clear need for comprehensive integration policy however no national programmes of sort have been developed till today. Additionally, these countries face the problem of availability of sociological data about the situation of minorities as well as effective monitoring procedure.
- Last but not least, minority issue in the region is characterised by what Wæver (1995) called securitization of ethnic relations. **Russia as a kin state is an actor** that plays a decisive role in all aspects of national minority issues of the countries in Eastern Europe and Baltic States. Minorities feel often as a hostage in security politics between their home country and Russia. It can be argued that issues of national minority rights and policies cannot be address without a consideration of the role of Russia in it.

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C) South Eastern Europe (Skopje)

Prepared by: Magdalena Kouneva and Katerina Velichkova, Regional experts

*”Tell me who would like a garden
that only had white roses or just clovers...”*

*Kimet Fetahu,
Representative of Macedonian minority in Albania*

The timing of this seminar was auspicious, coming as Bulgaria and Romania have just joined the EU, Croatia has become a prime candidate to become an EU member, Bosnia and Herzegovina marked the twelfth year anniversary of the Dayton Peace Agreement that ended the war in Bosnia and Herzegovina, Montenegro became independent, Serbia adopted a new Constitution in 2006, and the Ohrid Framework Agreement between the Macedonian and the Albanian political parties that ended the hostilities in Macedonia is in the sixth year of its implementation. We expect the last major undecided issue resulting from the break up of the former Yugoslavia to be settled – the status of Kosovo.

The theme of the workshop - the role of minorities in the process of transition in Southeast European countries - was the interconnecting issue that represented itself in a variety of ways throughout all sessions.

A wide range of issues were raised, they ranged from concerns about marginalization and self-isolation of minorities to a discussion of notions of identity, citizenship, integration and assimilation.

Taking the example of Serbia, it was maintained that at this very moment minorities are mostly victims of the fact that Serbia is a weak state with fragile, ineffective institutions that cannot fully and effectively protect their rights. This is further complicated by the adoption of the new Constitution in 2006 that sets many traps in implementing minorities' rights. Starting from the fact that Albanians in Kosovo (formally still a part of Serbia) were not given a possibility to vote on the referendum for the Constitution to the formulation of Serbia as a state of “Serbs and others” one can foresee permanent dissatisfaction of minorities and tensions within Serbian society.

The participants particularly enjoyed the open debate. One example is from the end of the third session, when there was an interesting debate on the influence of the EU in shaping minority policy in the Southeast Europe countries. It was said that this relationship is similar to “doctor-patient” relationship.

This needs to be seen in the context of recent European history. The Fall of the Berlin Wall in 1989 will always be used as a symbol for the end of the Cold War. The early 90s were also marked by the dissolution of the Soviet Union and disintegration of Czechoslovakia and Yugoslavia which led to the formation of numerous new states. In the case of Yugoslavia this process of disintegration resulted in devastating wars on ethnic lines. Ethnic cleansing and large

movements of populations changed the demographic picture of the region with reduced percentage of minority populations as a common denominator. With influx of refugees a completely new social dynamic was created in relation to “diversity”. As an example in the Serbian autonomous province Vojvodina the highest tension at this moment is between “Old Serbian population” and “Serbian newcomers”.

Since 2005 the EU has enlarged with twelve new members. In the context of “enlarged Europe” there is an opportunity to take an approach to shared concern for minorities. A recommendation to the EU is to take seriously the concern for culture reproduction of minorities as a matter of EU policy, establish strict standards and benchmarks, elaborate effective mechanisms to monitor situation of national minorities in the EU members and in countries wishing to join the EU, promote the use of minority languages (including languages of numerically smaller minorities), intensify cooperation with the Council of Europe, etc.

The role played by Roms in the ongoing “democratic transition” in the Western Balkans has generally been minimal. This is the case because in the post-Communist period as under the previous regime, Roms have been primarily the objects rather than the subjects of policy. Also important to keep in mind is that even in the cases of best practice with regard to Roms in the region, Roms invariably constitute the most disadvantaged national minority in countries which remain relatively disadvantaged themselves. While a change in this state of affairs is likely to require generations, the speed of such change might be increased by improving the possibilities for cooperation between the Southeast European countries and closer integration between the Western Balkans on the one hand and the European Union on the other.

Dropping numbers of minorities along with minorities’ immigration to kin-states and third countries is a major concern. This process has been intensified after Hungary, Romania and Bulgaria joined EU. An additional change resulting from EU membership is a new (dis)balance in international relations for instance in the case of Serbia and its neighbors. Although they remain bilateral the “added EU value” positioned more favorably those minorities compared to others, especially compared to Roma. The same issue was raised with respect to the Greek minority in Albania. In Macedonia, there is a process of ethnic Macedonians moving out of mixed areas. On the other hand, representatives of the Albanian minority on the local level express concern that decisions are being “ethicized” even if they are in the interest in all citizens. The prospect for EU membership is an important incentive for the countries that are not yet members of the EU to continue with the reforms and with the efforts to build trust between the various communities.

The discussion had as its background the Council of Europe’s Framework Convention for the Protection of National Minorities (hereinafter ‘Framework Convention’) to which all countries in the region are parties. The Convention is widely applied in the European Union member states. The European Union has also included “respect for and protection of minorities” in the Copenhagen criteria for membership in the Union.

The Framework Convention considers minority rights as individual rights which, however, may often be enjoyed in community with others (e.g. participation, language etc.). The preamble of the Convention shows clearly that the protection of national minorities is essential to stability, democratic security and peace: that a pluralist and genuinely democratic society is inextricably

linked to the respect of the identity of persons belonging to national minorities, and that the creation of a climate of tolerance and dialogue enables cultural diversity to be a source of enrichment of each society.

The Convention stipulates in Article 15 that:

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

Its official explanatory report notes that:

80. This article requires Parties to create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them. It aims above all to encourage real equality between persons belonging to national minorities and those forming part of the majority. In order to create the necessary conditions for such participation by persons belonging to national minorities, Parties could promote – in the framework of their constitutional systems – inter alia the following measures:

1. consultation with these persons, by means of appropriate procedures and, in particular, through their representative institutions, when Parties are contemplating legislation or administrative measures likely to affect them directly;
2. involving these persons in the preparation, implementation and assessment of national and regional development plans and programmes likely to affect them directly;
3. undertaking studies, in conjunction with these persons, to assess the possible impact on them of projected development activities;
4. effective participation of persons belonging to national minorities in the decision-making processes and elected bodies both at national and local levels;
5. decentralised or local forms of government.

Article 4 of the Convention provides that:

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

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

The measures adopted in accordance with paragraph 2 shall not be considered to be an act of discrimination.

The States parties to the Convention regard effective participation of persons belonging to national minorities, in concert with the principle of non-discrimination, protection and advancement of minority identity, and the requirement to promote full and effective equality in

all areas of economic, social, political and cultural life, as an essential (and mandatory) component of a peaceful and democratic society.

Workshop participants considered that the Framework Convention defines patterns of appropriate State action concerning the protection of minority rights. However, the framework nature of the Convention means that the implementation of these legal standards requires the adoption of national legislation and appropriate governmental policies at the domestic level in the Southeast European countries. The application of the international standards remains a great challenge for all countries.

CONCLUSIONS

In addition, the following more specific conclusions and proposals were made at the workshop:

1. With the advent of democracy in Southeast European countries, various minorities have had their rights restored and they were able to acquire additional rights.
2. All countries moved to adopt and implement reforms that could never have imagined possible at the start of the transition process. As mentioned, all countries have ratified the Framework Convention. A number of Southeast European countries have signed the European Charter on Regional and Minority Languages. There are special provisions and even special laws on the rights of national minorities such as the Law on the Protection of Rights and Freedoms of National Minorities in Serbia and the Constitutional Law on the Rights of National Minorities in Croatia.
3. Some examples of special rights accorded to members of minorities in some of the countries include: official use of minority languages and script, education in language of minorities, study of minorities' mother tongue, use of minority symbols, cultural autonomy, freedom of religion and faith, etc.
4. The institutional framework has also developed. There are clear improvements in the participation of national minorities in Parliament and in local bodies. Some countries allow participation of smaller minorities in national parliament on the basis of the principle of "reserved seats". In addition, the councils of national minorities established in many countries in the region remain a promising innovation. They can have an important role in the implementation of Article 15 and other principles of the Framework Convention, provided they have a clear role as well as the capacity and resources to provide significant and constructive input to the relevant decision-making processes. Currently however these bodies are not so effective.
5. Despite this relatively well developed framework for the protection of the rights of persons belonging to minorities, there continue to be inadequacies and legal gaps. Shortcomings are particularly manifest as regards the participation of persons belonging to national minorities in the public service, the police and judicial bodies. This issue also requires further attention by the relevant authorities in the design and implementation of related legislation, policies and practices.

6. Minority policy in the region is often formal. Even though the ruling circles of Southeast European countries, yielding to the external pressure from international organizations and in the context of the Euro-Atlantic accession processes already underway, declared most of the existing international standards in the field of minority rights as the principles underlying their policies, the application of such standards is not a projection of a conscious political will but is rather fulfillment of commitments made without internal conviction of their value and necessity.
7. It is further evident that the legal and institutional framework on minority issues in the Southeast European countries is ahead of the views of a great part of the population. Viewed in the context of mass political culture and the development level of civil society, the existing policies concerning minorities are even deemed as unnecessary and servicing political goals external to the public interest. Thus, measures which address problems of minorities tend to be unpopular.
8. In most countries voices can be heard that present minorities' integration and preservation of minority cultural identity as mutually exclusive. Hence despite some progress in fields such as education, the use of minority languages in public and private life, and participation in culture life, positive steps remain insufficient. The provisions on teaching minority languages have not prompted substantial changes in practice in the region as a whole. A possibility to give greater support for initiatives coming from the minority communities should be considered.
9. In Macedonia, the constitutional and legislative changes made in accordance with the Ohrid Agreement, lay the foundations for greater protection for minorities, inter alia, in such fields as the use of minority languages, education and participation, with the introduction of the principle of equitable representation for minorities at all levels of public administration. However, the bi-national state that emerged as a result of the post 2001 constitutional order in Macedonia does not address the dynamics of multi-ethnic society.
10. Significant efforts will therefore have to be made by the governments to complete the legal and institutional framework as well as to ensure its full realisation in practice. It is essential also that key institutions build further trust within minority communities, through increasing professionalism and by more effectively addressing inter-ethnic incidents and other concerns of persons belonging to various communities.
11. Furthermore, the creation of a legal framework should be preceded by a consistent and thorough process of creating a concept of the national policy regarding minorities; only through an extensive public discussion can the national policy on minorities be adopted and supported both by the majority of the citizens of Southeast European countries and by representatives of the minorities in these countries.
12. At the same time, minority communities should not expect their "inclusion" to come mainly as an initiative of the majority, the media or the government, and they should not explain its absence only in terms of discrimination. Greater self-consciousness and organization among minorities expressed in the form of active mechanisms for achieving

representation would considerably help speed up the desired processes. In order to achieve their purpose, nongovernmental organizations should formulate a clear stand on the issues which the minority in question view as most important in order to stimulate a public debate which will be heard by the representatives of the public authorities with the help of the media.

13. Civil society organizations and NGOs on all levels have an important role with respect to monitoring the implementation of existing legal framework and its improvement where necessary.
14. The EU has required a more coherent state policy towards the minorities and has financed specific measures aimed at improving the access of especially the Roma to various public services and employment. However, the lack of adequate Roma presence in the political life in the Southeast European countries has led to Roma problems not being sufficiently reflected. The overall implementation of specific measures and activities remains low.
15. Perhaps the factor which is most indicative of the current level of awareness and commitment of policy-makers in the Southeast European countries, is the extent of funding made available from the state budget for minority programming. Insufficient budgets are constraints limiting all policies, not only those that target minority issues. Nevertheless, funding issues have particular implications for minority programming, where long-term commitment is needed to implement changes. However, too often, minority strategies and programmes are adopted without ensuring the necessary financial resources. Very often most of the available funding is from donors. The governments themselves have provided limited funding, with little long-term scope.
16. In addition to increasing the level and efficacy of funding from the state budget, it is necessary to provide inter-related funding of public information and education projects. It is critical to involve the media to ensure that minority governance is seen as a positive contribution to Southeast European countries' societies as a whole. It is important to engage both minority groups and the governments in order to nurture a shared understanding of what is needed. It is necessary to pursue an active policy of building mutual trust and promotion of respect of diversity.
17. Ethno business is a relevant concern. Appropriate policies need to be devised to minimize such negative effects.
18. There are examples for instance from Bulgaria and Romania how power-sharing experiences with political parties representing minority interest have contributed to boosting these countries' image in foreign relations. The European Commission evaluated very highly power-sharing and cooperation with the two most active minority political parties, i.e. the Democratic Alliance of Hungarians in Romania (DAHR) in Romania and the Movement for Rights and Freedoms (MRF) in Bulgaria. However, leaders of such parties need to be mindful of the fact that the parties themselves may become the main barrier to their internal modernization (even if their leaders see the need for modernization of their programmes, they may be reluctant to do so fearing a loss of votes at next elections).

19. The countries in Southeast Europe should make full use of CoE Framework Convention as an instrument that all countries in the region have ratified.
20. The responsibilities that the leaders of Southeast Europe countries face are great. The citizens that have elected them look to them to shape the destiny of their countries. The modern state should establish a functioning set of institutions which will create confidence that every single citizen will be able to exercise his/her civil, political, economic and cultural rights, will benefit from the public wealth and will participate in the management of public processes through the political representatives elected by him/her. It is not possible to achieve true democratic government without the adequate and effective participation of minorities in the cultural, social, political and public life. A view of the state as an instrument for democratic government is a prerequisite both for balancing the interests of the different ethnic, language and religious communities and for the fair representation of these interests in public decisions and actions. Deviation from this objective can undermine the legitimacy of the basic structure of any state.
21. The journey to develop democratic states and multiethnic societies continue today. Regardless of some positive changes in the legal framework and the application of good practices in certain areas, an advanced policy on governing minority-related issues does not exist in any of the Southeast European countries. This type of policy will require innovative mechanisms that are a challenge for the future.

5. Lists of Participants

A) Central Europe (February 24, 2007, Budapest)

Name	Function	Organization	Country
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József Berényi	Member of the National Council of the Slovak Republic	Committee on Public Administration and Regional Development	Slovakia
Marta Kukowska	Councillor	Office of the Commissioner for Civil Rights Protection	Poland
Lajos Aáry-Tamás	Commissioner for Educational Rights	Office of the Commissioner for Educational Rights	Hungary

B) Eastern Europe and the Baltic States (March 30, 2007, Tallinn)

Name	Position	Organization	Title
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Raivo Vetik	Director	Institute of International and Social Studies, Tallin University	Estonia
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Olya Tarchynets	Researcher	-	Ukraine

C) South Eastern Europe (April 27, 2007, Skopje)

Name	Position	Organisation	Country
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