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- Monitoring Minority Rights: Twenty-five Years of Implementation of the Framework Convention for the Protection of National Minorities



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The Framework Convention for the Protection of National Minorities is the most comprehensive international law source designed to protect the rights of persons belonging to national minorities. It was adopted by the Council of Europe in 1995 and entered into force in 1998. The Framework Convention has been relevant in the past 25 years for addressing challenges related to realization of rights of persons belonging to national minorities. The principles contained and rights prescribed in this instrument of minority rights continue to guide member states in protecting and promoting the rights and freedoms of persons belonging to national minorities, promoting their identity, and ensuring their rights. The Convention prohibits discrimination against national minorities in various aspects of life, including in the areas of education, culture, language, and access to public services. It recognizes the importance of preserving and developing the culture, language, religion, and traditions of national minorities. States are encouraged to support minority languages and cultural diversity. The Convention promotes the participation of national minorities in public life, allowing them to express their views and participate in decision-making processes that affect them. The Convention is requiring that States provide education in the minority languages and to promote the study of minority cultures and histories.

Prof. Antonija Petričušić

The post-Yugoslav area, like other post-socialist countries, had to meet specific criteria for regulating the position of national minorities and still faces challenges related to ethnicity. Democratic processes in these areas have not been fully realized, and inter-ethnic relations and the rights of national minorities represent a challenge for the peoples of these areas, their governments and the international community. This thematic compendium highlights the achievements of multiculturalism policy in each country, successful solutions, as well as current issues that continue to complicate inter-ethnic relations and hinder the protection of the rights of national minorities.

Prof. Ana Čupeska

The thematically organized book fulfilled the goal of an academic overview of multiculturalism policies in the post-Yugoslav area in the context of the implementation of the Framework Convention for the Protection of National Minorities of the Council of Europe. The comparative method and argumentation based on quantitative data significantly contribute to the improvement of the scientific relevance of the text and its impact on the study of theories and practices of multiculturalism.

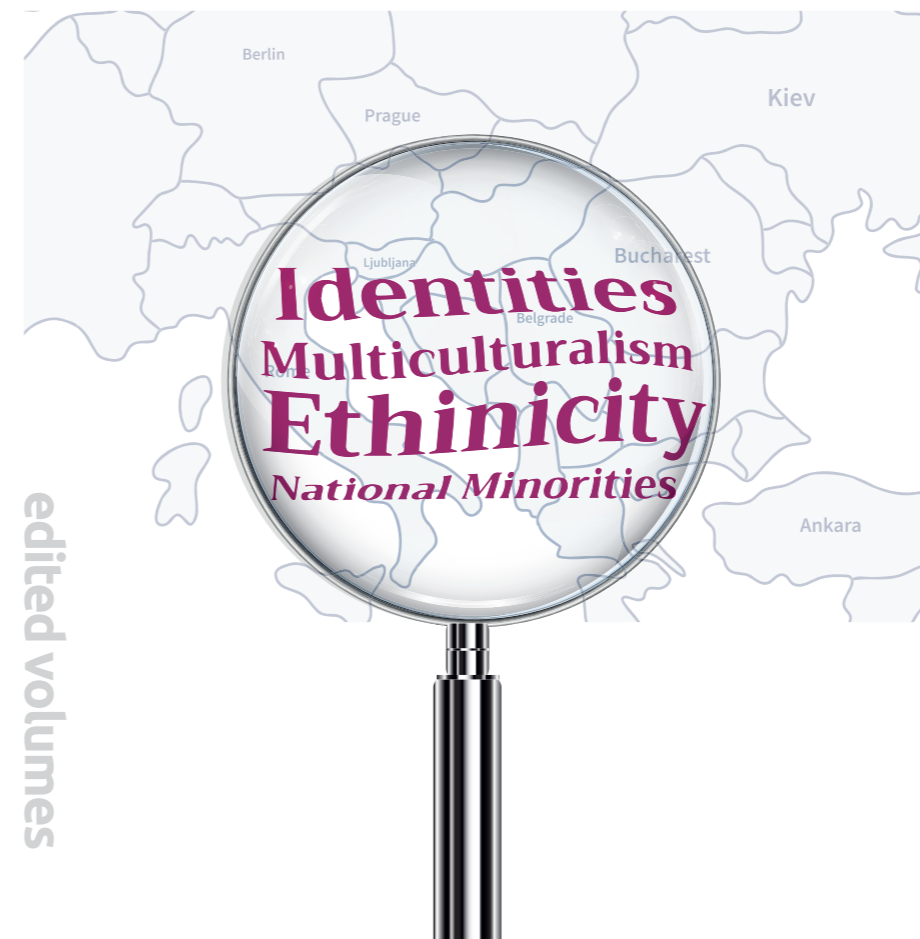
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MONITORING MINORITY RIGHTS

EDITED BY: GORAN BAŠIĆ



MONITORING MINORITY RIGHTS

edited volumes

In the countries that formed on the territory of Yugoslavia, multiculturalism is a phenomenon that few people are truly happy about. Ethno-cultural differences were often the cause of conflicts, xenophobia and nationalism. The peoples in this area aspire to a life based on a monocultural outlook, on ethnically homogeneous territories populated by culturally, ethnically, linguistically and religiously close compatriots. In the last three decades, on the legacy of the conflicts that followed the breakup of Yugoslavia, but also on the experiences of the multiculturalism policy developed during its history and, in particular, on the standards for the protection of national minorities contained in the Framework Convention for the Protection of National Minorities of the Council of Europe and the recommendations of the High Commissioner on National Minorities of the Organisation for Security and Co-operation in Europe, the post-Yugoslav states have developed their own multiculturalism policies whose goals are the coexistence and security of people and the protection and preservation of the identity of national (ethnic) minorities.

For this purpose, national instruments and mechanisms have been established, funds are allocated in national budgets to support multiculturalism policies, and successful ones are awarded recognitions and awards. However, the persistence of pronounced social distance between ethnic communities and demographic changes that indicate intensive voluntary emigration of members of national minorities indicate that something is still not right with multiculturalism in the area from "Vardar to Triglav". It is to be expected that after three decades of applying the "most liberal", as the politicians from this area were prone to saying, policies, multiculturalism, coexistence and tolerance of differences have become part of regional and national societies. However, that ideal has not been reached neither in the countries from this area that have become European Union members nor in those that are pejoratively singled out in the geopolitical construction of the Western Balkans and are striving to become so.

Goran Bašić

MONITORING MINORITY RIGHTS

TWENTY-FIVE YEARS OF IMPLEMENTATION OF THE FRAMEWORK
CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES

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INŠTITUT ZA NARODNOSTNA VPRAŠANJA
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Tolerance and Intercultural Dialogue vs. Discrimination of National Minorities* – Application of the Framework Convention for the Protection of National Minorities in Serbia

Abstract

This paper aims to analyse the application of the Framework Convention for the Protection of National Minorities in Serbia, i.e., obligations arising from Articles 4 and 5 of this Convention. The analysis deals with prerequisites and conditions that are of relevance for the purpose of protecting national minorities, the latter being significant in order to ensure that national minorities are protected against discrimination. For the minority national and ethnic identities to be accepted, it is important to raise the level of population's culture, especially political culture, whereby it is particularly significant to embrace and respect differences. Without this, a harmonious cohabitation of all ethnic groups, both the majority and minority ones, is not possible. Substantial means for the fulfilment of obligations stipulated by the Framework Convention are upbringing, education, socialisation, dialogue, tolerance, compromise, and consensus. The purpose of this paper is also to review conditions for the specific application of Articles 4 and 6 of the Framework Convention for the Protection of National Minorities. This analysis includes the Fourth and the Fifth Periodical Reports on monitoring the application of the Convention, the reports pertaining to mutual interactions and communication, use of the language in everyday communication, education, and protection against discrimination. We have additionally analysed proposals and views of the Council of Europe Advisory Committee and reports compiled by the Republic of Serbia. Finally, we have drawn certain conclusions presented in the form of measures which, according to the Framework Convention, Serbia should undertake for the purpose of protecting national minorities. *Keywords:* national minorities, equality, dialogue, tolerance, discrimination

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1. Introduction

Before the Council of Europe was established, the protection of national minorities had been conducted at a country level and was mainly connected with relative policies that were implemented within each country's inner organisation. In a small number of European countries, political awareness ripened, according to which normality, safety and stability in the social life of a relative country may be accomplished solely when members of various ethnicities living in it are treated equally. What is particularly significant is to eliminate discrimination of the members of national minorities and attempts by the majority and other ethnicities to assimilate them. It was concluded that the Council of Europe, as an umbrella organisation connecting European countries, should come up with a valid legally binding international instrument which would codify the highest standards for the protection of national minorities' rights, thereby making such practices uniform and ensuring the application of standards used in the countries with a proven track record of successful protection of national minorities, including regulatory governance of minorities (Bašić, 2018a: 166).

In 1994, the Committee of Ministers of the Council of Europe drafted and adopted the Framework Convention for the Protection of National Minorities while as of 1st February 1995 the Convention was presented for signing to all the Council of Europe members. In terms of the implementation of the Framework Convention, the member countries are obligated to submit individual reports on the application and realisation of the Convention, for each signatory country individually. The Committee of Ministers of the Council of Europe is in charge of monitoring the application of the Framework Convention. Within the Committee, the Advisory Committee has been established as a special body composed of experts who address the oversight of the realisation of the Convention in the member states in a comprehensive and specialised manner.

As part of implementation of the Convention, each country is obligated to submit periodically the Report on the Application of the Convention. Once all reports have been submitted, the Advisory Committee provides its opinions on these reports and

also issues recommendations for due implementation of identified shortcomings. Based on the reports submitted by every country, as well as the opinions and recommendations issued by the Advisory Committee, and the comments that every country must present subsequently, resolutions are passed relative to the implementation of the Framework Convention, as well as recommendations on what is to be done in order for minority communities to be legally protected. This ends a five-year cycle for the implementation of the major international treaty on the protection of national minorities.

The Republic of Serbia has undertaken the obligation to proceed with what the Federal Republic of Yugoslavia (FRY) committed to and ratified in the Federal Assembly in 1998, as part of the Council of Europe's Framework Convention for the Protection of National Minorities. The FRY accepted invitation by the Committee of Ministers of the Council of Europe and became party to the Framework Convention on 11th May 2001, which took legal effect on 1st September the same year. To date, the FRY, then the State Union of Serbia and Montenegro, and as of 2006 the Republic of Serbia, has submitted five periodical reports (2002, 2007, 2012, 2019 and 2022), so as to comply with the obligations set forth in Article 25 of the Framework Convention and provide full information on legislative and other measures undertaken for the purpose of implementing the principles defined in the Framework Convention.

This paper in particular analyses the obligations arising from Articles 4 and 6 of the Framework Convention, namely guaranteeing equality before the law and equal legal protection, and prohibition of any discrimination of persons belonging to national minorities (Article 4, Paragraph 1), as well as obligations that are relative to encouraging a spirit of tolerance and intercultural dialogue, promoting mutual respect, understanding, and co-operation (Article 6, Paragraph 1). We have particularly analysed the fulfilment of these obligations in practice by competent authorities, i.e., the measures undertaken by the State of Serbia for the purpose of fulfilling the above-mentioned obligations.

2. Presumptions and conditions for the protection of national minorities in Serbia per the Framework Convention

Education is one of major elements for creating and maintaining identities, both personal and group ones. Apart from upbringing and education, socialisation plays a significant role in creating, as well as maintaining group identity and the identities of persons belonging to a national minority (Jovanović & Joković Pantelić, 2022). An education system that applies the standards of accepting and preserving differences is ensured by means of two extremely important aspects, dialogue and tolerance, thus allowing for good relations within multinational, multireligious, multiconfessional, and multicultural communities (Čupiћ & Joković, 2013b: 225–226). Respect for differences ensures good communication and relationships among persons in societies and countries which are multinational and multicultural (Fukuyama, 2022: 126–127). Maintaining identity and, accordingly, a sense of safety and stability of persons belonging to various national minorities, and majority populations alike, is dependent on commitment to the application of standards, as well as on legislative solutions. In Serbia, the Framework Convention for the Protection of National Minorities is based specifically on the guaranteed rights.

The most significant segment in terms of the protection of national minorities in Serbia is to create an atmosphere in which all stakeholders, especially those at an institutional level in charge of the implementation of the Framework Convention, will encourage and nurture respect of different ethnic origin, culture, language, and religion, as well as of other features of their respective identities. Furthermore, it is also important to protect them against any form of discrimination, exclusion, hostility, and violence (Joković, 2015: 85). The spirit of the Framework Convention is to practise intercultural dialogue and culture as regards differences and diversity and to encourage cooperation and mutual understanding in cohabitation.

To ensure required conditions that will allow national minorities to maintain and develop special characteristics of their respective cultures, it is necessary to guarantee major elements in the

maintaining of their identities: language, education, religion, and culture (Bašić, 2018b: 70). To incorporate the elements of differences in social fibre, it is necessary to create a cultural atmosphere that accepts and respects differences (Bauer, 2004: 51). Furthermore, it is necessary to develop political culture that will allow for the application of differences, without any consequences potentially leading to animosity, exclusionism and confrontation. The issue of political culture is the issue of breadth and level of general culture for the entire population in society and the country. Increasing the level of culture is ensured by means of a well-designed education policy, i.e., a well-organised education system.

Culture, especially political culture, creates necessary prerequisites that are utterly significant for accepting and respecting not only individual persons, but also their group affiliation (Čupić, 2021: 149). Additionally, culture appeals to understanding among diversities that will not lead to confrontation. The culture of diversity expands and enriches special experiences. Trust is one of the most fundamental prerequisites for mutual cooperation among diverse entities. Trust is about identifying similarities that connect the diverse (Fukuyama, 2000: 40). Trust does not raise any doubts regarding differences, but rather supports them in the best possible manner. In addition to this, the means significant for the purpose of protecting the rights of national minorities are those enabling its acceptance and its actual life: dialogue, tolerance, compromise and consensus. When people are aware of those major elements of cultural life and political culture, all other measures that are significant for protecting national minorities will be easily accepted and applied. These are the measures elaborated in relative laws and regulations, and the length of their application makes them become a rule. Without the said elements, it will be difficult to achieve even the most adequate solutions regarding the protection of national minorities.

An individual, as a cultural being, acquires full identity by becoming incorporated in all identities that matter to them. Individual identity, as a basis for all other identities, is incorporated in the identities that form content and riches of a person. Cultural identity is especially important because with the help of this identity, an individual chooses values and relationships with persons who belong

to various cultures. Cultural identity is not enclosed in its own community. Just the opposite, this identity is connected “with democratic political values” (Wolton, 2009: 404). In other words, cultural identity makes it impossible to be isolated in a society that comprises members of national minorities. The presumption of cultural identity is to possess critical capacity that will not lead this identity either to fragmentation or separation, which may ultimately result in isolation and, subsequently, in segregation.

Within the doctrine of human rights, it is equally important to protect persons both as individuals and as members of a group, to protect beliefs or convictions a particular individual deems significant for their life. Hence, it is not sufficient just to protect individuals in terms of their personal rights, it is also important to protect their rights that stem from different forms of their ethnicity (Bašić, 2017: 38).

The first element of political culture that is significant for the protection of national minorities is *respect*. It entails both respect for an individual personality and an individual’s affiliation to a group or any specificity. If people treat each other with respect, then it will be easy for them to accept and practise protection mechanisms within the bounds of legal and legislative solutions. In situations with no respect, but with valid mechanisms relative to the political and legal nature of the protection of identity, these mechanisms are unlikely to be applied with sincerity. Hence, people’s awareness of *respect* is exceptionally important since it serves to accomplish everything guaranteed in regulatory terms. Even when issues are raised by certain individuals regarding this awareness, by way of exception, i.e., incident, this will not substantially result in deterioration of the relationship of respect among people of different ethnicity, beliefs and convictions. To build and raise such awareness, it is also necessary to include and develop it through education, socialisation and cultivation of a meaningful life of people in the community (Joković Pantelić, 2023: 21).

Another significant element in terms of the protection of national minorities’ rights is *trust*. It is one of the elements of democratic political culture. Trust is content and a process that is built not over years but rather over decades, i.e., with the passage of time and the change of generations. It shows that it is possible for

different people in the same area to live and cohabit with people belonging to different cultures and having different beliefs and convictions. Niklas Luhmann believes that trust is the basic fact of social life, while Ivan Krastev argues that without it “person could not get up in the morning” (Krastev, 2013: 79). Trust implies several levels, from physical to business ones to the level of trust born from the state of mind and spiritual orientations (Giddens, 1998: 118–121). If there is no trust in a community, then it is difficult to protect members of national minorities only with the use of legal mechanisms. When there is no trust, ways will always be found to bypass legal mechanisms. Without trust, there is always a threat of tension and rift. Mistrust potentially breeds conflicts that range from aggressive verbal intolerance to wars. In societies in which trust is built, it becomes a pattern that is passed on from generation to generation. Trust eliminates discrimination and inequality, but also a sense of anxiety and endangerment (Čupić & Joković, 2013a: 26–34).

3. Means of accomplishing the protection of national minorities in Serbia

Important aspects for the accomplishment of respect are *dialogue, tolerance, compromise* and *consensus*. *Dialogue* is the best way because it is non-violent. Dialogue helps people to resolve any possible misunderstanding and misreading in an amicable manner. People who opt for dialogue commence conversation holding a set of opinions and views and end the conversation holding a set of new and better opinions (Šušnjić, 2007: 10). With better argumentation, people reach the most acceptable and the most productive decisions and solutions for their relationships. Historical experience shows that people involved in dialogue resolve their misunderstandings and problems in the best possible manner while at the same time abandoning misconceptions, prejudice, and stereotypes. Dialogue is the best way for people to develop individually, as a group and as whole society and, in such development, to raise individual and social standard of living. Due to the said reasons, dialogue among different ethnicities is exceptionally important, ethnicity not infrequently giving rise to misunderstanding and conflict.

Dialogue ensures better rules and laws, i.e., legally organised and guaranteed protection of every national minority.

Another significant aspect is *tolerance*. It is a presumption that allows individuals and groups to resolve potential misunderstandings via dialogue. As regards national minorities, the most important form of tolerance is the acceptance of differences and diversity (Čupić, 2002: 22). When society incorporates and builds the awareness of tolerance, it is then possible to have dialogues in which common solutions are found, i.e., decisions are rendered jointly. Tolerance directs people towards the use of another segment – *compromise*. Compromise is undoubtedly important for the purpose of seeking solutions and decisions to be accepted by people regardless of their opinions and views that will remain unchanged. Compromise is about abandoning exclusivism and sacrificing one's own positions that are in opposition to other's positions, but in such a manner that the victim does not entirely rebut mentioned positions. Compromise is achieved between two (or more) possibly good and/or fair solutions, whereby the solution that is accepted is the one with better argumentation and more beneficial consequences. Once a compromise solution is accepted, it is applied without any difficulty in practice. Certainly, there are potential limitations to compromise, for a simple reason that there is no compromise "between the truth and the lie, justice and injustice, good and evil" (Čupić, 2021: 175). The last significant and necessary means segment is *consensus*, i.e., agreement to the effect that a decision or a solution is accepted with all national minorities agreeing to it. When all parties in society and the country agree on the manner and mechanisms for the protection of national minorities, they will not be threatened, nor will they be pressured into anything that is imposed by the majority.

4. Fulfilment of obligations under Article 4 of the Framework Convention – the Fourth Oversight Cycle

As part of the Fourth Oversight Cycle for the application of the Framework Convention, the Advisory Committee recommended to Serbian authorities that the anti-discriminatory legal framework should be adjusted to international standards so as to add

clarity, since there were many laws that contained anti-discriminatory provisions that contradicted one another (The Fourth Opinion on Serbia, 2019: 12). Given the fact that the 2021 modifications and amendments to the Law on Prohibition of Discrimination contributed to harmonisation with international standards, the matter will be dealt with in more detail in the section below that analyses the fulfilment of obligations stipulated per Article 4 of the Framework Convention, as part of the Fifth Oversight Cycle.

The recommendation of the Advisory Committee, issued as a result of the previous (third) oversight cycle, emphasises that Serbia needs to provide adequate support to Ombudsperson institutions at all levels and to the Commissioner for the Protection of Equality “to ensure the efficient handling of complaints received and that they are known and accessible to persons belonging to national minorities” (Resolution CM/ResCMN (2015)8, 2015: Article 2). Regarding this matter, in the Fourth Periodical Report Serbia states that for the purpose members of national minorities familiarising themselves with the institution of the Commissioner for the Protection of Equality, multiple publications and brochures were created, and a number of projects were realized with the aim of better informing the members of national minorities about the mechanism of protection against discrimination. Furthermore, the state notes that the Ombudsperson institutions at all levels did not mention having any difficulty regarding the efficient performance of their activities and their recognition in minority communities (The Fourth Periodical Report, 2018: 116, 117). Nevertheless, the Fourth Opinion of the Advisory Committee shows that national minorities less and less frequently protect their rights in relative process before the Commissioner for the Protection of Equality and the Ombudsperson, and accordingly the Advisory Committee “calls on the authorities to step up their efforts to raise awareness especially among groups most frequently exposed to discrimination, in particular Roma living in informal settlements as well as the relevant community workers, about the legislative standards and of the remedies available to victims of discrimination” (The Fourth Opinion on Serbia, 2019: 13).

As regards gathering equality data, the Third Opinion of the Advisory Committee notes the need to collect reliable data on

discrimination and to develop adequate methods of ethnic data collection while fully respecting personal data protection. In the Fourth Periodical Report, the state reports that the Rulebook on More Detailed Criteria for Detecting Different Forms of Discrimination by an Employee, Child, Student or Third Party in an Educational Institution (*Official Gazette of the Republic of Serbia*, No. 22/16) stipulates the employees' obligation to detect and report to state authorities any case of discrimination, thereby contributing to collecting reliable data on discrimination (The Fourth Periodical Report, 2018: 119). Since this obligation applies only to the field of education, i.e., that this is a norm stipulating the duties of stakeholders in the education system in a general manner, and since this provision is not self-applicable, but also given that it is not governed by this bylaw in further detail, it would be too optimistic to believe that it could contribute in more substantial terms to achieving the mentioned recommendations. Consequently, in its Fourth Opinion, the Advisory Committee notes that it is necessary for the authorities to set up, as soon as possible, a data collection framework, as well as to promote complementary qualitative and quantitative research and also, on the basis of such data and research, to set up, implement, monitor, and periodically review minority policies (The Fourth Opinion on Serbia, 2019: 14). As part of the Fourth Cycle, the absence of data on the position of Roma is underlined, including the data relative to the application of regulations, which prevents the appraisal and assessment of the situation as to whether anti-discrimination and other relevant measures were undertaken or not. In the contemporary literature focused on Roma rights, there is a consensus that discrimination stands as the primary barrier preventing social inclusion, as well as social and legal equality for members of the Roma community (Bašić & Stjelja, 2021: 234).

5. Results of the fulfilment of obligations under Article 4 of the Framework Convention – the Fifth Oversight Cycle

In 2022, the Republic of Serbia submitted the Fifth Periodical Report (covering the period between 2017 and 2021), in which it is, *inter alia*, noted that the Law on Amendments to the Law on the

Prohibition of Discrimination (*Official Gazette of the Republic of Serbia*, No. 22/2009 and 52/2021) was adopted in 2021, whereby the local anti-discrimination framework was adjusted to international standards. Thus, the definition of indirect discrimination now complies with the EU legislation, and the concept of segregation was incorporated in the Law, which is particularly important for the purpose of exercising national minorities' rights, especially the Roma minority, since the segregation of Roma pupils and students is still present in Serbia, as well as in the education systems of some other European countries. To successfully combat segregation in the education system, it is necessary to "enable the use of efficient remedies which should be made available but also to design preventative measures which are based on facts, hence it is necessary to obtain relevant data which would be used as a basis for designing such measures" (Stjelja, 2017: 529). In this connection, it is worth noting that the mentioned modifications and amendments to the Law on the Prohibition of Discrimination stipulate relative records, administrative registries and statistical data to be used as facts for the purpose of proving discrimination in civil proceedings (Article 27), since all attempts at proving segregation before court had failed.

As for monitoring of the prohibition of discrimination and access to legal protection, i.e., guarantee to minorities to protect their right to non-discrimination before court, the State reported on multiple publications, leaflets, and trainings whose objective was to raise awareness of the members of national minorities in terms of possibility to protect their rights before the Commissioner for the Protection of Equality.

From the analysis of the reports compiled by the Commissioner for the Protection of Equality, submitted to reflect discrimination against national minorities in the period between 2015 and 2022, it can be seen that the number of filed complaints per year was as follows: 2015: 119; 2016: 60; 2017: 62; 2018: 59; 2019: 50; 2020: 114; 2021: 96; 2022: 163.¹ The analysis of the number

¹ Regular Annual Report of the Commissioner for Protection of Equality for 2015, 2016: 119; Regular Annual Report of the Commissioner for Protection of Equality for 2016; 2017: 142; Regular Annual Report of the Commissioner for Protection of Equality for 2017, 2018: 139; Regular Annual Report of the Commissioner for Protection of Equality for 2018, 2019: 95; Regular Annual Report of the Commissioner

of complaints shows that following a decrease in the number of complaints until 2019, this mechanism of protection became used much more frequently. Better identification of discrimination faced by the Roma in Serbia, as reflected in the increased number of complaints submitted to the Commissioner, is a significant development. This increased number of complaints leads to increased measures being taken against the perpetrators of discrimination, which in turn encourages those who suffer discrimination to continue reporting it. Additionally, the increased number of complaints raises the significance of the issue of discrimination of national minorities to a higher level, bringing attention to the urgent need for continued efforts to combat discrimination and promote inclusion. It is important to note that a higher number of reported cases usually does not reflect more frequent discrimination in a society, rather it indicates that victims are supported and encouraged to report the discrimination.

On the other hand, the Fifth Periodical Report notes that the Ombudsperson was not sufficiently perceived as a “go-to” institution for national minorities for the purpose of protecting their rights (The Fifth Periodical Report, 2022: 87), and if one were to look into the practices prevailing in recent years, this opinion is all the more confirmed. From the analysis of regular annual reports compiled by the Ombudsperson, for the period 2018 to 2022, it is noted that the Ombudsperson reviewed the following number of case files in the field of the protection of national minorities’ rights on an annual basis: 2018: 64; 2019: 71; 2020: 46; 2021: 44 and 2022: 27.² A significant decrease in the number of cases is noticea-

for Protection of Equality for 2019, 2020: 103; Regular Annual Report of the Commissioner for Protection of Equality for 2020, 2021: 18; Regular Annual Report of the Commissioner for Protection of Equality for 2021, 2022: 21; Regular Annual Report of the Commissioner for Protection of Equality for 2022, 2023: 20 (Regular Annual Reports are available at <https://ravnopravnost.gov.rs/izvestaji/>, accessed on 25th September 2023).

² Regular Annual Report of the Ombudsman for 2022, 2021: 4; Regular Annual Report of the Ombudsman for 2021, 2022: 8; Regular Annual Report of the Ombudsman for 2020, 2021: 7; Regular Annual Report of the Ombudsman for 2019, 2020: 21; Regular Annual Report of the Ombudsman for 2018, 2019: 48. (Regular Annual Reports are available at <https://www.ombudsman.rs/index.php/izvestaji/godisnji-izvestaji>, accessed on 25th September 2023).

ble and the Ombudsperson was far less frequently approached by the members of national minorities.

Finally, when it comes to collecting equality data and establishing the framework for collecting data and promoting qualitative and quantitative research so as to assess the position of the members of national minorities, the State reports only on a proposal for providing support to designing a web portal/application in which competent authorities should enter all data of relevance for monitoring the fulfilment of national minorities' rights, according to developed criteria and data within the joint EU and CE programme *The Horizontal Facility for the Balkans and Turkey*. This would enable the establishment of a sustainable human-rights based framework for collecting data that pertain to issues of access to human rights for members of the national minorities (The Fifth Periodical Report, 2022: 40).

In the context of collecting discrimination-related data, it is especially important to note amendments to the Law on the Prohibition of Discrimination of 2021, which stipulate the establishment of official records on protection against discrimination. Namely, the Commissioner is obligated to maintain records of "anonymised legally binding judgments and decisions made in connection with discrimination and violation of the principle of equality that the courts submit to the Commissioner", for the purpose of reviewing the situation in the field of protection against discrimination (Article 40a). On the other hand, all courts are obligated to maintain records of all "legally binding judgments and decisions made in lawsuits for protection against discrimination, of legally binding judgments and decisions made in misdemeanour proceedings for violation of provisions prohibiting discrimination and of legally binding judgments and decisions in criminal proceedings for criminal offenses related to discrimination and violation of the principle of equality", and are to submit the said judgements to the Commissioner no later than 31st March of the current year, for the previous year (Article 40b). Nevertheless, relative bylaw that stipulates maintaining records on the proceedings related to protection against discrimination has still not been passed by the minister in charge of the judiciary.

6. Fulfilment of obligations under Article 6 of the Framework Convention – the Fourth Oversight Cycle

According to the recommendation issued by the Advisory Committee, “the Serbian authorities should intensify their efforts to develop and implement measures aimed at increasing and strengthening contacts and interactions between the various communities living in Serbia. Specific efforts in this regard should be made with respect to the Sandžak and South Serbia regions. Measures to enhance mutual interest in and respect and understanding for each other’s culture amongst young people are of particular importance. Better use could also be made of councils for inter-ethnic relations in this context” (The Fourth Periodical Report, 2018: 136). Relative to this recommendation, it is noted in Serbia’s report that systemic measures have been planned for the purpose of “enhancing and strengthening contact” and for “interaction among the various communities that live in the Republic of Serbia”. Enhancing the contact and interaction among the various communities refers to the field of education, personal and national identity, development of the sense and feeling of belonging to the Republic of Serbia, respect and nourishment of the Serbian language and national minorities’ languages, respect of traditions and culture of Serbian people and national minorities, thus creating conditions for interculturalism (The Fourth Periodical Report, 2018: 137–138). The Report states that recommendations issued by the Advisory Committee are incorporated in the Law on Culture (*Official Gazette of the Republic of Serbia*, No. 72/2009, 13/2016 and 30/2016), Law on Public Information and Media (*Official Gazette of the Republic of Serbia*, No. 83/2014, 58/2015 and 12/2016), and the National Youth Strategy 2015–2025.

As regards the implementation of measures stipulated per Article 6, which is in operational terms implemented by the Office for Cooperation with Civil Society of the Government of the Republic of Serbia, the 2016 Report shows that funds allocated for the purpose of expanding national minorities’ culture, which also include funds for spreading peace and non-violence, strengthening the rule of law and growth of democracy amounted to RSD 430,017,775.00, which accounted for 4.46% of the envisaged budget for the Office for Cooperation with Civil Society. The same

report mentions that no funds were used neither for preserving cultural identity nor for multiethnic projects and the promotion of minorities' rights (The Fourth Periodical Report, 2018: 139). These data indicate that, despite regulatory obligations prescribed within its legislation as regards Article 6 of the Framework Convention, the Republic of Serbia carried out its own plans only in part while regarding recommendations issued by the Advisory Committee, the extent of realisation is at a minimum.

For multicultural projects by different regions, funds are especially earmarked for the Autonomous Region of Vojvodina. The project *Promotion of Multiculturalism and Tolerance in Vojvodina* has been underway since 2005. The owner of this project is the Provincial Secretariat for Education, Regulations, Administration and National Minorities (The Fourth Periodical Report, 2018: 139–140), while many other organisations and institutions active in the field of culture are involved in the project. Particular focus in this project has been placed on strengthening inter-ethnic relations among the young. This project, which is conducted throughout Vojvodina, particularly includes primary and secondary school students. International organisation, government authorities, local self-government authorities, and NGOs are involved in changes in the project. A sub-project, which deals with the preservation and nurturing inter-ethnic tolerance, was funded in 2016, for which purpose the amount of RSD 13.3 million was earmarked (The Fourth Periodical Report, 2018: 140).

According to the recommendations issued by the Advisory Committee to local self-government units in the regions of Sandžak and South Serbia, a number of projects are underway in Bujanovac, Preševo, Medveđa, Novi Pazar, Sjenica, Tutin, Prijepolje, Priboj and Nova Varoš. These projects are as follows: *Promotion of Human Rights and Protection of Minorities in Southeast Europe*, *Youth in Multicultural Community*, *Promotion of Intercultural Practice in Culturally Diverse Schools*, *Our City, Our Schools*, and *Our Story* (The Fourth Periodical Report, 2018: 140–141). All of the above-mentioned projects were also supported by various foundations from European countries. There would have probably been some difficulty in realising these projects if they had been funded solely by the Republic of Serbia, because funds it invests are negligible.

In 2016, according to The Fourth Periodical Report (2018: 131), four national minorities received RSD 1 million or more for culture promotion purposes: the Hungarian national minority (RSD 1.8 million), the Bosniak national minority (RSD 1.75 million), Roma (RSD 1.2 million), and the Croatian national minority (RSD 1.0 million). All other ethnic communities were granted between RSD 200,000 and RSD 600,000 respectively. For the project aimed at the preservation of cultural identity and creativity of the members of national minorities, only one national minority (Hungarian) was granted an amount exceeding RSD 1 million (RSD 2.48 million) in 2016 (The Fourth Periodical Report, 2018: 132). All other ethnic communities were granted between RSD 15,000 and RSD 700,000 for this purpose. The Slovak national minority was granted the latter amount.

In its Fourth Opinion on Serbia, which was adopted on 26th June 2019, the Advisory Committee notes a low level of research, i.e., studies that should present data and show the condition of tolerance in terms of embracing differences and diversity, as well as maintaining intercultural dialogue among national minorities and the majority. In other words, such research and studies would ensure that data relative to inter-ethnic relations in Serbia are obtained. In this Opinion, it is observed that “the promotion of tolerance and openness towards diversity in society is essential not only for the development and implementation of successful integration strategies, but it is also a central precondition for persons belonging to national minorities to self-identify as such without hesitation and proactively claim the rights contained in the Framework Convention” (The Fourth Opinion on Serbia, 2019: 20). The Advisory Committee also recommends support to the development of independent qualitative and quantitative research showing the level and nature of inter-ethnic relations, including relations between persons belonging to national minorities and persons belonging to the majority. It is also recommended to conduct an independent qualitative study in order to assess the functionality of the Councils for Inter-Ethnic Relations (The Fourth Opinion on Serbia, 2019: 21) as working bodies of local self-government units that are often assigned responsibility they do not actually have.

7. Results of the fulfilment of obligations under Article 6 of the Framework Convention – the Fifth Oversight Cycle

In the Fifth Periodical Report of 2022, the Republic of Serbia provided answers to the Secretary General of the Council of Europe about the implementation of the Framework Convention and recommendations issued by the Advisory Committee. In response to recommendation issued by the Advisory Committee regarding the independent qualitative and quantitative research showing inter-ethnic relations, as well as relations among minorities and the Serbian majority, a list of conducted studies is presented in the Report. It is stated that the Republic of Serbia conducted several studies over the observed period. Of particular note are three studies: that of social relations between ethnic communities in Serbia, conducted by the Ethnicity Research Centre and the Institute of Social Sciences in Belgrade; the Senta workshop for the research of national minorities' identities, and the study of nationalist tendencies of Serbian population, which was part of broader research entitled *Stratification Changes in the Period of Capitalist Consolidation in Serbia*, conducted by the Institute for Sociological Research, Faculty of Philosophy, University of Belgrade (The Fifth Periodical Report, 2022: 106).

As regards Article 6 of the Framework Convention relative to projects addressing the promotion of multiculturalism and tolerance in the Autonomous Region of Vojvodina, 139 projects were funded in 2019, for which the amount of RSD 20,968,647.17 earmarked (The Fifth Periodical Report, 2022: 96–97). In 2020, as many as 214 projects were funded for which the funds of RSD 15,130,000.00 were earmarked, while in 2021 the amount of RSD 14,619,645.00 was earmarked for 184 projects. The Republic of Serbia allocated RSD 10,250,000.00 for mass media projects (The Fifth Periodical Report, 2022: 97–98). Nevertheless, the manner in which national minorities are presented in the media frequently contains a hint of discrimination, with the media often showing footage that is prejudiced and contains stereotypes, which contributes to negative perception of national minorities. The protection of national minorities in media reports is primarily governed by

anti-discrimination and media legislation, while the laws that protect the rights of national minorities do not govern this area. Instead, they only stipulate such issues that are relative to the provision of information in the media in national minorities' languages. In this relation, a good practice, which however is not common, is translation of national minority programmes into the Serbian language that makes national minority issues more accessible to the majority, which undoubtedly contributes to the development of multicultural society (Bašić & Stjelja, 2018: 298).

In 2021, three national minority communities were granted the amount of RSD 1 million or more for projects which are of significance for the national minorities – Hungarian RSD 3.35 million, Slovak 1.15 million, and Croatian RSD 1 million (The Fifth Periodical Report, 2022: 101). All other national minority communities were granted between RSD 50,000 and RSD 700,000, the latter having been granted to the Romanian national minority. For funding national minority councils, the Republic of Serbia earmarked the amount in excess of RSD 10 million from its budget only for a few of them (The Fifth Periodical Report, 2022: 104–105). The Hungarian national minority was granted RSD 59,438,983.00, Bosniak RSD 27,828,583.00, Roma RSD 22,122,634.00, Slovak RSD 17,778,528.00, Romanian RSD 14,160,015.00, Albanian RSD 13,226,019.00, and Croatian RSD 12,975,990.00. For all other communities, granted funds ranged between RSD 3,388,209.00 (Ashkali) and RSD 9,033,971.00 (Ruthenian) (The Fifth Periodical Report, 2022: 104–105). The only national minority that was granted more than RSD 10 million from the budget of the Autonomous Region of Vojvodina, namely the amount of RSD 24,417,200.00, was the Hungarian national minority. All other national councils were granted between RSD 100,000 and RSD 6,391,600.00, the latter amount having been granted to the Slovak National Council (The Fifth Periodical Report, 2022: 105).

These data show the attitude of the Republic of Serbia to the allocation of funds issued from the budget for projects that are applied for by members of national minorities and the minorities' national councils. There are two criteria based on which funds are allocated: the size of a particular national minority and the political attitude to a particular national minority. The size of national

minority criterion should be taken into account when budget funds are earmarked for the purpose of funding national councils and projects. An extremely important criterion for fund allocation is social vulnerability of a particular national minority. According to this criterion, the most sizeable amount should be granted to the most financially sensitive groups, so as to improve their position and accordingly to raise the level of their cultural life and to provide equal treatment in Serbia. It is therefore necessary to maintain a set of statistical data that would show both cultural and social potentials for equal inclusion of the members of national minorities in social, political, and social life, as well as fair civilisational and social distribution. The mentioned studies and statistics based on them are not maintained in Serbia, so their existence would significantly elevate the level of awareness and culture and education of all members of national minorities, but also equality in terms of participation in social and political life.

The research conducted in Senta as part of the *Workshop for the Research of Minorities' Identities* shows that 35.2% members of all members of the Hungarian national minority believe that relationship between other ethnicities have improved in the past ten years, while 7.6% of them believe that it deteriorated (The Fifth Periodical Report, 2022: 107–108). Additionally, this research shows that members of the Hungarian national minority believe that relations between Hungarians and Serbs are stable and that there are no threats in this sense, i.e., that Hungarians and Serbs have a relationship of stable cohabitation. When it comes to percentages, 61.1% of the respondents believe that these relations have been stable in the past ten years, 23.3% believe that they will be improving in the future, while only 5.3% of the respondents believe that relations have deteriorated (The Fifth Periodical Report, 2022: 107–108). This research additionally confirms the impression that the Hungarian national minority in Serbia is satisfied with its position as well as the manner in which it is treated by the Serbian majority. This was especially a result of good relations between Hungarian and Serbian political elites (Bašić, 2021: 81).

The research conducted by the Institute for Sociological Research of the Faculty of Philosophy, University of Belgrade, in which nationalist tendencies of the population were investigated,

shows that there is strengthening valuation of organic nationalism as compared to ethnocentric nationalism. What stands out in organic (romantic) nationalism are common origins, tradition and history. This research has shown that valuation of organic nationalism is stronger with the majority, but also with members of national minorities. The results demonstrate that there is a decrease in ethnocentric nationalism both with the majority and national minorities, i.e., in extreme positions in inter-ethnic relations (The Fifth Periodical Report, 2022: 108). According to the research results, the respondents in the majority of cases reject nationalist views, especially vis-à-vis members of other ethnicities. There are three indicators for this decrease in ethnocentric nationalism: mixed marriages, trust in inter-ethnic relations, and being enclosed in ethnically “pure communities”. The research has shown that there is still strong sensitivity in terms of the valuation of organic nationalism and the drop in ethnocentric nationalism, which steeply rose in the Republic of Serbia during the 1990s. These are sensitive areas and, in the future, they should be addressed so as to ensure they reach the level that will not give rise to prejudice, stereotypes, discrimination, and feeling and sense of unequal position of any member of the national minorities.

The 2020 research into social relations between ethnic communities in Serbia, which was conducted by the Ethnicity Research Centre and the Institute of Social Sciences with the support of the Open Society Foundation, measured social distance between Serbian respondents and respondents from selected national minorities. This research included the Albanian, Bosniak, Hungarian, Croatian, Roma, Romanian, and Slovak national minorities. Social distance was measured based on the following three criteria: social contact, personal views of one ethnic group on other ethnic groups, and the respondents’ trust in the members of other ethnic groups in relation to important social roles in society and the state (The Fifth Periodical Report, 2022: 106). With regard to social contact, the questions pertained to the existing relationships (social and familial) among the members of various ethnicities. According to the criterion for measuring the attitude to other ethnic groups, the investigated aspect was cohabitation in the state, as well as neighbourhood, then making acquaintances and forging friendships with

the members of other ethnicities, workplace collegiality, and marital relations among various ethnicities. As part of the third criterion, the investigated aspect was that of trust that the members of various ethnicities would have in the election of the state's President, Prime Minister, ministers, presidents of municipalities, selection of teachers, and doctors.

The answers to the questions on the use of language, especially in the education systems of national minorities, have shown that members of the Serbian nationality do not use national minorities' languages (99.7%). It has also shown that they are against an education system in which the national minorities will use only their mother tongue. Accordingly, 66.5% of the respondents are against this approach to education of the national minorities, while only 18.7% support the exclusive use of national minorities' mother tongue in the education system. As for bilingual education, members of the Serbian majority (87.5%) support it, while mere 6.3% are against it (Bašić et al., 2020: 79).

According to this research, the Albanians in Serbia have the closest relations with the Serbs (77.6%), then Roma (56.7%), and the Bosniaks (53.1%). The contacts they have with all other national minorities are under 30% (Bašić et al., 2020: 90). In everyday life, the Albanians in Serbia use the Albanian language (97.8%). The Serbian language is used for everyday communication by 33.33% members of the Albanian national minority, while only 7.3% never use the Serbian language (Bašić et al., 2020: 111). In the education system, the Albanian respondents are in favour of the use of the Albanian language (60.2%). Bilingual education in Albanian and Serbian is accepted by 65.8% of the Albanian respondents (Bašić et al., 2020: 112).

The Bosniaks have the closest relations with the Serbs (96.2%), Albanians (80.5%), Roma (67.1%), and the Croats (64.8%). The contacts they have with all other national minorities are under 50% (Bašić et al, 2020: 126). In everyday life, 75.5% members of the Bosniak national minority said they used the Bosniak language. Moreover, the respondents belonging to this national minority (62.8%) also use the Serbian language on a daily basis (Bašić et al., 2020: 148); 54.2% of the respondents are in favour of the use of the Bosniak language in the education system, while 29.1% are

against it. As many as 74.4% respondents are in favour of bilingual education, while this form of the use of language is not supported by 13.5% respondents (Bašić et al., 2020: 150).

Members of the Hungarian national minority have the closest relations with the Serbs (97.2%), the Croats (83.8%), the Slovaks (60.5%), and Roma (60.8%). They use the Hungarian language for everyday communication (93.2%). Moreover, the respondents belonging to this national minority (79.1%) also use the Serbian language on a daily basis (Bašić et al., 2020: 185); 72.1% of the respondents opt for the use of Hungarian in the education system, 74.9% are in favour of bilingual education, while 16.8% are against it (Bašić et al., 2020: 186).

Members of the Croatian national minority have the closest relations with the Serbs (89.6%), then the Hungarians (83.3%), the Bosniaks and Roma (80.4% each) (Bašić et al., 2020: 201). The respondents belonging to the Croatian national minority use the Serbian language in everyday communication (79.5%), while the Croatian language is used by 19.2% (Bašić et al., 2020: 223). Exclusive use of Croatian in the education system is supported by 31.7% of the respondents, while 42.6% are against it; 71.4% respondents are in favour of bilingual education, while 7.1% are against it (Bašić et al., 2020: 225).

The respondents belonging to the Roma national minority have the closest relations with the Serbs (97.7%), the Bosniaks (57.4%), the Croats (53.6%), and the Albanians (50%). The contacts they have with all other national minorities are under 50% (Bašić et al., 2020: 241). The members of Roma nationality use the Serbian language in everyday communication (77.8%) more than their native language (18.5%) (Bašić et al., 2020: 263). The use of the Roma language in education is supported by 26.2% of the respondents, while 64.1% are against it. At the same time, bilingual education is supported by 82.4% of the respondents, while that method of education is not accepted by 13.6% of the respondents (Bašić et al., 2020: 265).

The Romanian respondents have the closest relations with Serbs (98.8%), Slovaks (85.1%), Hungarians (82.4%), and Roma (81.1%) (Bašić et al., 2020: 280). In everyday communication, 50.2% of the Romanian respondents use the Serbian language, while

Romanian is used by 49.8% (Bašić et al., 2020: 300); 36.7% of the respondents are in favour of the use of Romanian in education, while bilingual education is supported by 85.7% of the respondents (Bašić et al., 2020: 301).

Members of the Slovak national minority have daily contacts with the Serbs (99.1%), the Croats (84.4%), the Hungarians (82.6%), the Bosniaks (76.1%), Roma (70.8%), the Romanians (56.6%), and with other minorities under 50% (Bašić et al., 2020: 315). The respondents belonging to the Slovak national minority use the Slovak language in everyday communication (75.5%) and then Serbian (24.5%) (Bašić et al., 2020: 338). As regards the education process, 73.6% are in favour of exclusive use of the Slovak language, while 17.4% are against it. Bilingual education is supported by 81.8% of the respondents, whereas it is not accepted by 8.5% of them (Bašić et al., 2020: 340).

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Minority rights have indisputably developed in the Republic of Serbia since 2000, whereas the integration of minorities has not been achieved yet. Characteristically, there are still separate cultural areas among ethnic communities. Not much has been done to handpick the common threads that connect ethnic cultures without questioning their differences whatsoever. A positive step forward is certainly that there has been a decrease in the number of inter-ethnic conflicts, while the objective of multiculturalism policies is civil society in which there is zero tolerance for discrimination and in which the various cultures intertwine in the public field.

Based on the analyses of the recommendations, data, reports, and opinions issued by the Advisory Committee of the Council of Europe and the Government of the Republic of Serbia pertaining to Articles 4 and 6 of the Framework Convention, the following conclusions can be drawn: it is necessary to provide better access to legal protection for the minorities and to collect equality data in order to assess the position of the members of national minorities, as well as to adopt and apply more efficient minority policies; it is necessary to conduct more thorough research into the acceptance of differences, as well as their tolerance among the majority and national minorities, but also among national minorities themselves, in the

social life of Serbia; it is necessary to encourage meetings in which the position and development of national minorities will be discussed and to open a dialogue on issues arising therefrom. It is additionally necessary to prompt integration processes that do not bring into question language, culture, religious beliefs of the members of national minorities, this obligation arising from the Framework Convention. The allocation of funds from the Republic of Serbia budget should be increased so as to fund projects proposed by the members of national minorities. The criteria for fund allocation should be clearly and precisely elaborated. The size of national minority is not sufficient as a criterion. The criterion of sensitivity of the members of national minorities should be introduced. All projects should encourage the quality of understanding between the majority and the members of national minorities, but also the quality of life of Serbian citizens. Fair allocation of funds for such projects will result in lower dissatisfaction levels while prompting an increasing level of agreement in terms of issues that are of relevance for cohabitation in Serbia. This approach decreases and minimizes the occurrence of the idea of segregation of a national minority. Fair allocation strengthens respect for and acceptance of international regulatory obligations, as well as those obligations that arise from Serbian legislation. Accepting regulatory obligations and compliance with them is thus not seen as a mere formality to which no stakeholder adheres. Legal protection becomes a barrier for exclusionists and those who are not tolerant while all others accept it and live by it.

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in numerous publications. See for example: KOMAC, Miran. *The Protection of Ethnic Communities in the Republic of Slovenia: Vademecum*. Ljubljana: Institute for Ethnic Studies, 1999. Komac devoted special scientific interest to the protection of the Roma minority. He focused his research on problems of education, political representation of members of the Roma minority and increasing social capital. The tragic history of the Slovenian Roma community during the Second World War (porajmos/samudaripen) is also on his research agenda. In 2010–2013 he led a very important EU project entitled the increase in social and cultural capital in areas with a Roma population.

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