



KOALICIJA ZA PROMOCIJU I ZAŠTITU LJUDSKIH PRAVA
Gornjodravska obala 81 / 31 000 OSIJEK / Croatia
Tel/fax: +385-31-284-320 , +385-31-284-321 , +385-31-284-323 / E-mail: lsc@os.htnet.hr

PROGRAM:
Prava manjina u praksi u jugoistočnoj Europi –
Nacionalna strategija za Hrvatsku

Program prava manjina u praksi u jugoistočnoj Europi 2004.-2006. je inicijativa King Baudouin fondacije u partnerstvu s fondacijom Charles Stewart Mott i Soros fondacijom

CONFERENCE

Implementation of the Constitutional Law on the Rights of National Minorities in 2006

Zagreb, 18 December 2006

R E P O R T

Introduction

On 18 December 2006, a Conference on the “Implementation of the Constitutional Law on the Rights of National Minorities in 2006” was held in Zagreb. The Center for Peace, Legal Advice and Psychosocial Assistance - Vukovar organized the conference on behalf of the Coalition for Promotion and Protection of Human Rights. The conference was organized within the frame of the two-year program “Minority Rights in Practice in Southeast Europe”.

The conference participants, more than 70 of them, were representatives of the Ministry of Justice, the Ministry of Foreign Affairs and European Integrations, the Central State Administration Office, the Council for National Minorities, national minority MPs in Croatian Parliament, national minority councils and organizations, local and regional self-governments, the OSCE Mission in the Republic of Croatia and non-governmental organizations.

The aim of the conference was to evaluate the progress achieved in the previous years through creation of legal and political preconditions and by undertaking practical measures aimed towards full implementation of the Constitutional Law on Rights of National Minorities. Further on, the Conference focused on the assessment of remaining shortcomings in the implementation of the Constitutional Law on Rights of National Minorities and its contribution to the efforts to overcome them in the future.

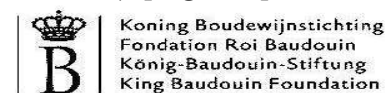
Conclusions and recommendations of the conference “Constitutional Law on National Minorities – Three Years Later (2002-2005)”, organized by the OSCE Mission in the Republic of Croatia in the mid October 2005, were the starting points for the discussion and assessment of current situation in exercising political rights of national minorities, rights on national minorities representation in state administration and judiciary, and exercise of cultural and linguistic rights of national minorities.

Opening notes and introductory remarks

On behalf of the Coalition for Promotion and Protection of Human Rights, the President of the Center for Peace, Legal Advices and Psychosocial Assistance – Vukovar, Mr. Ljubomir Mikić opened the

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conference and welcomed the participants. The agenda and aims of the conference were presented to the participants. As highlighted, the conference represented an event following thematic discussions organized within the project “Minority Rights in Practice” in 2005 and 2006.¹

Participants were welcomed and addressed by the Deputy Head of OSCE Mission in the Republic of Croatia Ambassador Robert W. Becker. Ambassador Becker stressed out that the OSCE Mission supports efforts for exercising full implementation of the Constitutional Law in practice. Preconditions for realization of this goal are both the extensive familiarity with the law and the undertaking of the measures for its implementation. At the end of 2006, the OSCE Mission (co)organized two public discussions significant for exercising rights of members of national minorities and implementing the Constitutional Law. The first discussion, held on November 27th, aimed to evaluate the situation regarding the implementation of the Article 22 of the Constitutional Law on Rights of National Minorities in part referring to the employment of persons belonging to national minorities in administrative bodies of units of local and regional self-government. The second discussion was dedicated to evaluation of the need to establish accurate, comprehensive and centralized voter's lists.

Topic presentations and discussion

The working part of the conference was divided into three topic groups:

1. Participation of minorities in public life and management over affairs of their interests,
2. Representation of national minorities in state administration and judiciary,
3. Cultural and linguistic rights of national minorities.

Topic 1. Participation of minorities in public life and management over affairs of their interests

The first topic was dedicated to the work of councils and representatives of national minorities², National Council for National Minorities³ and co-ordinations of national minorities. The Vice Presidents of the

¹ In the period between November 2005 – October 2006, the Coalition for Promotion and Protection of Human Rights organized five roundtable discussions on: “Participation of persons belonging to national minorities in political life and public affairs in the Republic of Croatia with the emphasis on the issues in relation to the collection of data on ethnic / minority affiliation”; “Exercise of the right to education of persons belonging to national minorities in Eastern Croatia”; “Problems of ethnically motivated incidents in the Republic of Croatia in 2005”; “Challenges to permanent resolution of refugee problems in the Republic of Croatia – Implementation of Sarajevo Declaration on Regional Refugee Return”; “Exercise of the right to official use of national minorities languages and scripts in units of local and regional self-governments and programs in national minorities languages on the Croatian Radio and Television”.

² Article 23 of the Constitutional law on rights of national minorities: " For promotion, preservation and protection of the position of national minorities in the society, the members of national minorities can elect, in the manner and under the conditions defined in this Constitutional law, their minority self-governments or minority representatives in the self-government units."

³ Article 35 Paragraph 1 of the Constitutional law on rights of national minorities: " A Council for National Minorities shall be set up to consider and propose ways of regulating and addressing issues related to the exercise and safeguarding of minority rights and freedoms. To this end the Council shall co-operate with competent government and self-government bodies, minority self-



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National Council for National Minorities Mr. Zoran Stanković and the President of the Co-ordination of National Minorities in Zagreb, Mr. David D. Orlović, gave the introductory on the topic.

During his introduction, Mr. Stanković referred to the processes of capacity building of national minority councils and National Council for National Minorities. Some indistinctness from the previous period regarding these new institutions of national minorities has been mainly prevailed, so the situation can be assessed as improved. Nonetheless, it is still necessary to invest further efforts in introduction of people into the system, better knowledge of the legal framework and provision of logistical support for the functioning of councils.

The work of the National Council for National Minorities can be assessed as satisfactory, but it is still necessary to strengthen its human and technical resources, as well as general infrastructure. Only two persons are employed within the National Council's professional services. Persons belonging to national minorities generally perceive the National Council as an institution in charge of distribution of funds provided through the State budget for the implementation of activities of minority organizations, which, so far, was, indeed, one of the basic functions of the National Council. Compared to the time the National Council started to operate, available funds for programs of minority organization in 2007 have increased for 45%.

National Council organized several educational events intended for councils and representatives of national minorities and representatives of local and regional authorities. One of such seminars, organized at the beginning of 2006, identified priorities and measures for the improvement of the work of councils of national minorities.

Councils of national minorities that addressed the National Council were provided with the support. Czech community in Daruvar was supported in the process of filing a constitutional lawsuit on basis of inability to exercise acquired linguistic rights and lack of alignment of the town's statute on that issue; the Serb minority received National Council's consent on the use of signs and symbols of Serb minority; Roma minority in Čakovec were provided with the assistance in building a local infrastructure.

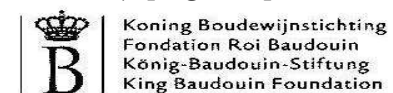
However, the presence of the National Council in local communities is still insufficient. The National Council plans to continue with the implementation of educational programs, to establish better communication with the councils, and to support them in, among other, articulation of their specific needs.

Referring to the process of positioning and functioning of councils of national minorities, Mr. Orlović stated that we are "at the end of the beginning". Much has been achieved, but much more remains to be achieved. It is necessary to ensure legal, financial and logistical preconditions for the work of all councils of national minorities. It is necessary to harmonize statutes and acts of units of local and regional self-government with provisions of the Constitutional Law on Rights of National Minorities. Official data on the number of units of self-government that did/didn't harmonize local statutes with the Constitutional Law are unavailable. Further on, in order to achieve efficient work of national councils, it is necessary to

governments, national minority organizations and legal entities engaged in activities related to the exercise of minority rights and freedoms...."

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ensure their participation in decision-making processes, access to working bodies of self-government units, as well as representation of persons belonging to national minorities in representative and executive bodies of local self-governments in accordance with the Constitutional law. Majority of councils lack stable and permanent financing and basic logistic preconditions to perform their key activities. One of the problems associated to individual representatives of national minorities refers to the inexistence of a registry for such individual institution. A positive example of relations of local authorities towards councils and representatives of national minorities in Zagreb has been highlighted. An effective mechanism of distribution of funds from the town's budget intended for the work of councils and representatives of national minorities has been set up in Zagreb. Councils and representatives of national minorities on the level of the town cooperate and support each other, without any negative competition between them.

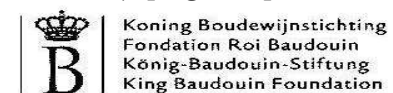
Mr. Orlović expressed his dissatisfaction with the functioning of the system for supervising the implementation of the Constitutional law, and with the work of the Central State Administration Office because of the omissions and lack of implementation of supervision in regards to harmonization of local statutes with legal provisions.

The legal status of co-ordinations of councils of national minorities remains unresolved. Their status, registration and funding need to be systematically resolved. The existing possibility to register co-ordinations in accordance to the Law on Associations is inappropriate to the role of co-ordinations perceived by the Constitutional Law on Rights of National Minorities. Mr. Orlović suggested that the financing of the work of co-ordinations of national minorities founded on national level should be provided from the state budget.

Mr. Orlović closed his address with a recommendation for a close review of the initiative for a simultaneous organization of the forthcoming elections for councils of national minorities and local elections, which implies the extension of the mandate of members of councils and individual representatives of national minorities till 2009. Such synchronization of election dates might influence on a larger turnout of potential voters that would certainly award a higher legitimacy to the councils. Mr. Orlović also stressed the lack of public debates on the issue of the work of councils and representatives of national minorities, as well as full implementation of the Constitutional Law on Rights of National Minorities.

The discussion confirmed the necessity for further efforts aimed towards better positioning and recognition of the institution of the council of national minorities at local levels and in relations with local authorities. Consistent implementation of the Constitutional Law on Rights of National Minorities and provision of financial and logistic support (space, technical equipment and other) to the work of councils still remain a problem in some cases. Units of local and regional self-governments should ensure participation and inclusion of councils and representatives of national minorities in decision-making processes in accordance with obligations stipulated in the Constitutional Law. Councils and representatives of national minorities should be accepted as legitimate representatives of minority's interests at local levels. Representatives of councils of national minorities welcomed passing of the Rulebook on Compensation for Expenses and Rewards for the Work of the Members of Councils and Representatives of National Minorities. It is necessary to provide preconditions for the implementation of the Rulebook provisions and to apply it on levels of all local self-governments where councils and

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representatives of national minorities function. One of the issues stressed was the need for strengthened and intensified cooperation between national minority councils and National Council for National Minorities. Another issue stressed was the problem of limited and insufficient influence of councils in giving opinions and suggestions on programs of local electronic media in regards to minority programs. Councils and representatives of national minorities should be given a possibility to present their activities through the local media.

Topic 2. Representation of national minorities in state administration and judiciary

Mr. Ratko Gajica, member of the Club of National Minority MPs in the Croatian Parliament and Deputy President of the Parliamentary Committee on Human Rights and Rights of National Minorities, gave the introductory address on the issue of exercising rights on representation of members of national minorities in state administration and judiciary.

In regards to the implementation of the Article 22 of the Constitutional Law on Rights of National Minorities in practice, Mr. Gajica gave a negative assessment of the situation.⁴ The problem of under-representation of minorities in abovementioned bodies still persist while the process of achieving progress is impermissibly slow.

The affirmative action regulated by the Constitutional Law regarding employment and ensuring of representation of national minorities in state administration bodies and judiciary, and in bodies of self-government units is necessary at this moment if the full integration and provision of equality of persons belonging to national minorities and majority population are to be achieved. In the opinion of Mr. Gajica, the need for affirmative action might not be necessary in the moment when the Republic of Croatia becomes an arranged civil society and when integration of national minorities into Croatian society becomes essentially accomplished. There are three contexts significant for the implementation of the Article 22 of the Constitutional law – legislative, social and political.

The Constitutional law constitutes as a highly ranked law. For the purpose of its full implementation it is necessary to adopt additional implementation regulations and to harmonies existing legislation with the provisions of the Constitutional Law. Certain steps forward have been made on the legislative plan, for

⁴ Article 22 of the Constitutional law on rights on national minorities

(1) In a local self-government unit and in regional self-government unit (hereinafter: self-government unit), in which, pursuant to the provisions of this Constitutional law, proportional representation of members of this representative body needs to be ensured from among the ranks of members of national minorities, the representation of members of a national minority shall be ensured in its executive body.

(2) The members of national minorities shall be ensured representation in the state administration and judicial bodies in compliance with the provisions of a special law, taking into account the share of members of national minorities in the total population at the level at which the state administration of judicial body was established and the acquired rights.

(3) Members of national minorities shall be ensured representations in the administrative bodies of self-government units in compliance with the provisions of a special law regulating local and regional self-government and in compliance with the acquired rights.

(4) Members of national minorities shall have priority in the filling of posts as per Paragraphs 2 and 3 of this Article, under equal conditions.



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example: adoption of the Law on Civil Servants, Law on Courts, Law on State Prosecutor's Office and Amendments of the Law on Local and Regional Self-government. In the opinion of Mr. Gajica, provisions of the Constitutional law could be implemented even without adoption of special laws, if there is a good will that frequently lacks in practice.

Often, minorities are perceived as a "factor of disorder", with frequent negative perception of minorities in the media and extremely low level of inter-ethnic tolerance still existing in some areas of the country. It is necessary to undertake measures for the change of negative social climate aimed towards minorities and to work on increasing sensitivity in the public.

From the national to the local, political forces in all levels should send out positive messages that should contribute to the creation of a better atmosphere for employment and ensured representation of members of national minorities in State administration and judiciary.

In the course of discussion, an opinion was expressed in the view of the lack of functioning of a legal state regarding exercise of the right to priority in employment given to minorities under the same conditions in state administration and judiciary. Examples of minority discrimination in employment have also been mentioned. Compared to the previous period, no steps forward have been made towards adoption of the National Strategy for Combating all Forms of Discrimination, which drafting began four years ago. The representative of the Central State Administration Office familiarized the participants of the conference with measures this office is undertaking aiming to ensure representation of national minorities in state administration. Central State Administration Office initiated the establishment of a registry of state administration employees, which would be used to determine a genuine representation of minorities in the bodies of administration but also used to create plans for employing persons belonging to national minorities.

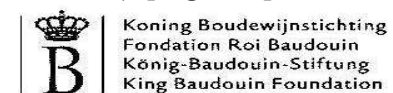
Topic 3. Cultural and linguistic rights of national minorities

The last topic of the conference was dedicated to issues of exercising cultural and linguistic rights of national minorities, including issues related to education of national minorities, exercising rights to official use of the language and script of national minorities, access of minorities to the media and minority programs in electronic media. Mrs. Zdenka Čuhnil, the President of the Club of National Minority MPs in the Croatian Parliament gave the introductory address.

At the beginning of her address, Mrs. Čuhnil emphasized that exercise of cultural and linguistic rights is a precondition for minority sustainability and prevention of assimilation.

A right to an equal official use of minority language and script on levels of units of local self-government is exceptionally problematic in some cases. Implementation of various legal decisions, such as introduction of official and equal bilingualism could include between 128 and 130 units of self-government. Today, bilingualism is introduced in 61 local self-government units, out of which 43 units are with Italian language. Non-recognition and disrespect of previously acquired rights of some minority communities, which are also guaranteed by the law, are specific problems in that respect. Regulating and exercising rights to an equal official use of minority language on the basis of acquired rights are left out to a good will of local authorities. In the case of Czech national minority, bilingualism based on legally determined

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threshold is introduced in only 1 municipality out of 9 units of the local self-governments, where the rights on bilingualism were previously acquired on the basis of the Decree on Manners and Conditions of the Use of Language and Script of Ethnicities from 1981. In the remaining 8 units of the local self-government, the local authorities didn't harmonize their statutes with the law and failed to build in the official bilingualism. The problem of non-harmonization of local statutes with the law in certain areas refers as well to Hungarian, Slovakian, Ukrainian and Serb minorities. Central State Administration Office did not inspect the statutes of these units of local self-government, in the sense of their harmonization with the law. No system of responsibility or sanctions has been introduced on the issue.

The biggest progress in the implementation of the Constitutional Law on Rights of National Minorities has been registered in the field of minority education system. Three models of education in mother tongue and script are provided for persons belonging to national minorities, while minorities in accordance to their interest, needs and possibilities choose a particular model. To a certain extent, remaining problems in this field refer to the issues of providing textbooks, relieving students of additional obligations and solutions referring to employment of teachers.

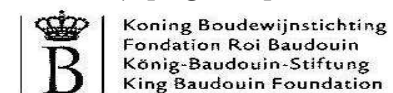
Mrs. Čuhnil stressed out her dissatisfaction with the minority access to the media, its context and the number of minority programs as well as programs in minority languages on the electronic media. Minority program on the Croatian Television in Croatia basically comes down to a once-a-week show "Prizma", a program of a mosaic type and without prearranged concept. In the past period, regional studios of the Croatian Television use to broadcast chronicles in 6 minority languages but that is no longer the practice. Participation of organizations and institutions of national minorities in creating minority programs in the electronic media is largely limited or disabled. This particularly applies to opinions and suggestions councils of national minorities provide on programs of local radio and television stations.

In the course of discussion, a progress was highlighted on the issue of physical separation of students of Serb and Croatian ethnicity in some schools in eastern Slavonija. From the beginning of the academic year 2006/2007, both students of Serb and Croat ethnicity are attending school in the same shifts and in the same buildings. The representative of the Serb community from eastern Slavonija welcomed this progress but also stressed that the problem of inability to register minority school in Serb language and Cyrillic script hasn't been resolved yet. Exercise of the right on registration of minority schools stems from the law, and in this case, the representative of the Serb community considers that the lack of implementation of the law presents a discrimination. There is an existing need to invest efforts in building and strengthening inter-ethnic relations and also building trust between teachers and students of Serb and Croat ethnicity in eastern Slavonija. The rest of the discussion focused mainly on outlining examples and experiences in the issue of exercising cultural and linguistic rights of certain national minorities from different parts of Croatia and completion of what was stated in the introductory.

Conclusion

Introduction notes and the discussion highlighted certain progress in exercising rights stemmed from the Constitutional Law on Rights of National Minorities in 2006. Nonetheless, most of the issues from the previous period still remained unsolved. Measures undertaken in the course of 2006 have had a limited reflection on the real changes in practice.

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It is necessary to continue with public discussions on the situation facing national minorities in the Croatian society and on open questions related to the implementation of the Constitutional Law on Rights of National Minorities. Also, it is necessary to strengthen efforts in line of creating sensitivity, distributing information and education of a broader public and all relevant stakeholders in the society on the status and the process of exercising rights of persons belonging to national minorities, and to establish an efficient system of monitoring status and responsibility for the lack of implementation of legal guarantees.

Report drafted by: Ljubomir Mikić

January 2007

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