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Mitja Žagar

Inclusion, Participation and Self-Governance in Plural Societies: Participation of National Minorities in the CEI Area

The initiative for a thematic journal issue on the political participation of national minorities emerged at an international seminar in Trieste in 2016. This article presents the concept and the framework, as well as the limitations in researching complex and dynamic social phenomena, such as minorities, inclusion, integration and participation. It stresses the social conditionality (based upon values and ideology) of research, research results, findings and interpretation(s), as well as the problem of funding that does not enable long-term, systematic and holistic research. Discussing social inclusion, integration, participation and democracy as the framework for the political participation of minorities, it presents a model of the social and political participation of minorities and their members as a tool for research and the interpretation of research results.

Keywords: participation, democracy, inclusion – exclusion, integration, majority – majority, rights and protection of national minorities.

Vključevanje, sodelovanje in samouprava v pluralnih družbah: participacija narodnih manjšin v regiji SEI

Pobuda za tematsko številko o politični participaciji narodnih manjšin je nastala na mednarodnem seminarju v Trstu leta 2016. Prispevek predstavlja zasnovo številke, njen okvir ter omejitve raziskovanja kompleksnih in dinamičnih družbenih pojavov, kot so narodne in druge manjšine, vključevanje, integracija in participacija. Poudari družbeno pogojenost raziskovanja, rezultatov, ugotovitev in interpretacij ter problem financiranja, ki ne omogoča celovitega, poglobljenega in dolgoročnega raziskovanja. Vključevanje, integracijo, družbeno in politično participacijo ter demokracijo predstavi kot kontekst politične participacije manjšin. Model družbene in politične participacije manjšin in njihovih pripadnikov opredeli kot orodje za raziskovanje politične participacije manjšin in interpretacijo raziskovalnih rezultatov.

Ključne besede: *participacija, demokracija, vključenost – izključenost, integracija, manjšina – večina, pravice in varstvo narodnih manjšin.*

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1. Introduction: A Brief Presentation of the Genesis of this (Special) Thematic Issue

The initiative to prepare a special thematic issue of a scholarly journal on political participation of national minorities was born at the international seminar Models of Political Participation and Self-governance of National Minorities in Central European Initiative Member States. This event held in Trieste, Italy on 17 June 2016 was organised by the Slovene Research Institute from Trieste (Slovenski raziskovalni inštitut – SLORI), with the Central European Initiative (CEI) and Institute for Ethnic Studies (Inštitut za narodnostna vprašanja – IES/INV). The venue of the seminar was a very symbolic one, at least for the Slovene national minority in Italy. The participants, who included scholars, some politicians, public/civil officials and minority activists from the CEI countries met at the Narodni dom/National Home, the building now owned by the University of Trieste that kindly offered the venue to the organisers and officially welcomed the participants at the opening session. The current building was (re)built on the very site of the cultural centre of the Slovenes, the Narodni dom designed by the famous Slovene architect Maks Fabiani that the Italian Fascists burnt down in July 1920 (Pozzetto et al. 1995). This historic regression is important also for the very topic of this special issue: it shows that the situation(s) of minorities, majority-minority relations and the protection of minorities in a certain environment can and do change over time. Historically, in the period of Austria-Hungary, regardless of occasional problems and social divisions, Trieste was considered a multiethnic, multilingual and open port-city with numerous ethnic communities. Regardless of sharp social and economic divisions, ethnic coexistence and cooperation were (quite) good. That changed dramatically after World War I. Especially in the Fascist period, the Italian state and authorities discriminated against, repressed and persecuted minorities, in this area particularly the Slovenes (Čermelj 1945). Although the Special Statute of the London Memorandum (of Understanding) of 1954 determined some political, social and cultural rights and the protection of the Slovene national minority in Italy,[1] tensions and problems in Trieste and other regions where the Slovene minority lives in Italy continued also in the post-World War II period. The situation started to improve (gradually) in the 1970s with the process of the Conference for Security and Co-operation in Europe (CSCE that later transformed into the Organisation for Security and Co-operation in Europe – OSCE)[2] that paid attention also to the rights and protection of national minorities. The improved East-West relations enabled the signing, adoption and ratification of the Treaty of Osimo between Italy and Yugoslavia[3] in 1975 that reconfirmed the minority rights established by the Special Statue (Jeri 1975). The trend of the gradual improvement of minority protection and the overall situation has continued, with some ups and downs, particularly after the

independence of Slovenia[4] and its membership in the European Union (EU). The CEI, particularly with its Instrument for the protection of minority rights (CEI 1994) and the promotion of regional cooperation in diverse fields, has contributed to these positive developments. However, several open issues and problems regarding the situation, rights and protection as well as social and political participation of the Slovene national minority in Italy are still present (Vidau 2017).

The participants of the seminar agreed that Treatises and Documents, Journal of Ethnic Studies would be the best option for a special thematic issue on political participation of national minorities in the CEI area. As the invited initial keynote speaker at the seminar, I was asked to be the guest editor of this special issue. Considering the suggested topic very important, I agreed. Fortunately, the editorial board of the Journal liked the idea and accepted the proposal. In addition to presenters at the 2016 seminar, we invited some additional scholars studying minority participation in the area and its countries to join the initiative and write a scholarly article on the general situation of the political participation of national minorities in individual countries or a specific case study of a selected minority. All received articles, this one included, underwent a double blind review process by reviewers of the Journal who contributed excellent comments and suggestions that helped authors improve their texts. I would like to thank the reviewers for their contributions to the improvement of the articles and this thematic issue. Additionally, upon receiving the positive reviews from the reviewers, the authors of the selected articles received my editorial comments and suggestions aimed at contributing to the linguistic, terminological and thematic homogeneity of this special issue. I am thankful to all the authors who tried their best to follow the reviewers' and my comments and suggestions, regardless of the time pressure of short deadlines determined by our desire to publish this thematic issue as soon as possible. I hope our efforts contributed to the focus and clarity of individual contributions as well as to the thematic issue as the whole. Particularly, I would like to thank Sara Brezigar and Zaira Vidau for their assistance in communication with authors, reviewers and the technical staff of the Journal, as well as in the technical editing of the articles.

Finally, I would like to present the aim, content, organisation and structure of this thematic issue. The central aim of this issue is to present and explore the inclusion and integration of national minorities and persons belonging to them in the CEI member states, particularly regarding and through their political participation. Consequently, this introductory article with a brief presentation of the general context is followed by a series of case studies. These present the legal framework, the historical and political context of the political participation of national minorities, as well as the current situation and position of a specific minority or national minorities in general in a respective country, paying special attention to recent developments and problems. It should be stressed that the

situation and developments in each of the countries are dynamic, complex, specific and unique. Moreover, often substantial diversities and differences, including different legal and political arrangements might exist within a single country, thereby contributing to the increasing complexity and multidimensionality of the studied topics and cases. Although some common features and characteristics regarding the political participation and self-governance of minorities could be detected in all countries of the area, any generalization for the whole CEI area might be problematic. Additionally, it should be underlined that political participation of national minorities and persons belonging to them presents just one, although very (in the current context, possibly, the most) important dimension of inclusion, integration and full participation of minorities. I would consider that the main added value of this thematic issue is that it presents the current situation of political participation of minorities in the selected countries of the CEI area providing data and analysis that otherwise might be difficult to find in the available scholarly literature. In establishing the order of the presentations in this special thematic issue, considering their nature as national or specific minority case studies, the editorial decision was to arrange them according to geographic criteria from West to East and from North to South. Consequently, the case studies relating to Italy are followed by case studies on Austria, Slovenia, Bosnia-Herzegovina and Romania.

2. The Broader Context: Phenomena, Research Methodology, Concepts and Definitions

Before addressing the topic of full participation of persons belonging to national minorities as individuals and of national minorities as specific collective entities, I believe a broader context needs to be discussed and clarified – one that is unfortunately often overlooked and/or forgotten by scholars and the general public, particularly in interpreting research results and findings. The term and concept of political participation of (national) minorities refer to complex social phenomena that manifest themselves and are interpreted differently in every society.

To avoid possible misunderstandings, first the concept of phenomenon requires some explanation. All natural and social phenomena are complex, dynamic, interrelated and interdependent processes that among several specific characteristics and dimensions share (at least) three key interwoven dimensions: relational, spatial and temporal. However, as complex as they are, phenomena are just segments of our integral complex, dynamic and constantly changing natural and social realities. Additionally, the relations and interdependence of phenomena in a certain environment constantly change and evolve. For this reason, scholars should avoid studying and interpreting individual phenomena as isolated and independent or static, frozen in time. An important problem in this context is that

in studying complex phenomena or their specific segments as well as in interpreting research findings and realities scholars use research approaches and methods that determine their research, findings and interpretations. These approaches and methods as well as definitions, concepts and measures (yardsticks) that evolved over time and are declared objective (or, at least, objectivised) are in reality social conventions, agreed upon and used with more or less consensus in the scholarly community. In order to be applicable, usually, they tend to simplify studied phenomena and realities, particularly by reducing or neglecting their complexity, dimensions and interdependence. Additionally, particularly in quantitative research, using these approaches and methods scholars determine and treat a certain selected phenomenon or a certain characteristic or segment of a phenomenon as an independent variable that determines the process and the reality. Mathematically we cannot calculate formulae in which all variables are unknown and dependent. Being unable to detect, describe, comprehend and interpret the whole multitude, diversity and complexity of studied phenomena and realities as well as lacking the capacity to express in formulae and calculate them adequately, such (systemic and systematic) simplifications are necessary and surely helpful, particularly in explaining and interpreting social phenomena, relations, processes and realities. However, in using and interpreting research results and findings we shall be aware of their problems and limitations, and shall recognize that research results are just approximations and tools that can help us understand certain dimensions of our realities. In other words, research results and findings are our simplified interpretations of realities and, consequently, approximations of studied phenomena and realities that should not be confused with and presented as the actual realities. Considering the complexity, dynamic nature and multidimensionality of social phenomena as well as their interplay and interdependence, it seems useful that in studying them we combine different research approaches, disciplines and methods, thereby reducing at least some of their limitations. I would advocate methodological pluralism as the most adequate approach that stimulates the use of multi-, trans- and interdisciplinary approaches and methodologies.[5] Additionally, we shall be aware that all approaches and methods as well as research, results, findings and interpretations are conditioned by values and ideology.[6]

The relational dimension of social phenomena can be presented as the dimension that refers to the existence and complexity of links and relations between (at least two, but usually more) individuals and/or collective entities (e.g., groups, communities, organisations, institutions, etc.) functioning as and being organised in diverse social networks. In the case of national minorities, the relational dimension is reflected in the interpersonal, intergroup and inter-institutional relations within a specific national minority, as well as in the relations of this minority (as individuals belonging to the minority on the one hand and as a collectivity on the other hand) with its specific environment and all (other)

individuals and collective entities within this environment. In this context, we often pay special attention to the majority-minority relations; however, different types of minority-minority relations and their social relevance in a respective plural environment should also be studied considering the existence of diverse (e.g., national, linguistic, religious, cultural, gender etc.) minorities.

The spatial dimension of social phenomena refers to the physical (geographic and social) and symbolic (imagined, sometimes mythical) space in which a specific phenomenon exists and with which it is connected/interrelated. In the case of national minorities, the spatial dimension usually refers to the territory of a state as well as a specific society in which a respective minority lives. However, as is the case with this thematic issue of the Journal, in addition to individual states also broader territories and regions, such as the CEI area, as well as continents and the global international community might be considered – either as case studies or as comparative context(s).

Finally, every social phenomenon has its temporal dimension. Social phenomena as complex, dynamic and constantly changing processes evolve and transform over time. In other words, they are not simple, static, fixed and unchangeable; rather, as processes in time they are complex, internally diverse and externally distinguishable, dynamic and constantly changing (fluid, transforming). These changes can be gradual and evolutionary or sudden and abrupt, usually described as revolutionary ones. With regard to the existence and duration of social phenomena, symbolically, we could speak of their life cycles. In such life cycles of social phenomena as processes, we can determine the moment or period of their origin(beginning/birth), duration (existence/life) and end (death).[7] This applies also to different types of ethnic communities, including modern (ethnic) nations, national and linguistic minorities.

Of course, in addition to the three mentioned key dimensions that all natural and social phenomena possess (and share) they might and do have a number of additional dimensions and characteristics that determine them and should be taken into consideration when those phenomena are studied, described and defined.

In studying social phenomena such as national minorities, possibly overwhelmed by the complexity of those phenomena, broader social processes and networks of communication and relations[8] as well as environments,[9] we scholars tend to ignore or overlook one or more of the mentioned dimensions or at least certain segments of these dimensions. Frequently, this is true for the temporal dimension as a certain phenomenon is studied at one point (cross-section) in time or in a certain, relatively short period. This deficiency is conditioned also by the system and nature of (both public and private) research funding that usually does not fund and promote basic holistic long-term research in the social sciences and humanities. Rather, research funding (particularly funding from private sources, lately also public funding that builds upon the principles

and goals of short-term efficiency, economic rationality, measurable profit and immediate results) favours short-term and applied research. I believe that in the long run such a practice can have negative social consequences, particularly in the context of successful regulation and management of socially relevant diversities. Insufficient for quality, holistic research of complex social phenomena and oriented to the short-term, research funding might not be available at all for the studying of phenomena and topics that funding agencies do not see as important from their perspectives conditioned by the formal definition of their mission(s) and goals. The missions and goals of funding agencies and bodies (that determine systemic funding and calls for projects), as well as the amount of funding, are decided by research policies adopted by the responsible (political) authorities. Although authorities and funding agencies should be independent and their decisions should be informed, objective and should take in to account the broadest public interests, they are often dependent upon different centres of power and particularly those (f)actors that provide some funding. At least in some cases, we could say that authorities and public funding agencies are unable to detect and comprehend the longer-term social relevance of social phenomena and topics that need to be studied. In some cases, due to the existing balance of power, the lack of their power and very limited funding available, they might simply be unable to realise their independent views and policies. Consequently, the interests, values and ideologies of (private) funders and power centres, particularly their narrow short-term profit logic, might determine public research policies and funding, including the selection of funded projects within calls. In these cases, the actual (social) relevance of research, interests and needs of a certain society, as well as the quality of research project proposals, might be ignored or marginalised. Consequently, I would conclude that long(er)-term perspectives, historical development(s), the evolution and transformation(s) of certain relevant social phenomena, their dynamic nature, evolution and transformation, as well as their broader social impact(s) and consequences, have not been and are not studied adequately. Furthermore, the situation has been deteriorating in recent years, when public funding has become even scarcer.

Presenting and interpreting research results, including this introductory article and the case studies presented in this thematic issue of the Journal, we shall be aware that the concepts and definitions used to describe and define studied phenomena (as processes) and situations at given times are social constructs. The same is true for all definitions, concepts and theories – in the natural and social sciences, as well as in the humanities and technology. Terminology, definitions and measures (yardsticks), methods and approaches as well as theories are conventions built upon the consensus of scholars and practitioners. Ideally, particularly in natural sciences and technology (the so-called hard sciences) they should be tested by controlled experiments that can be repeated in controlled environments and conditions. In the social sciences and humanities, usually such

practice and controlled repeatable experiments is not possible. Additionally, as already mentioned, regardless of all attempts at objectivity, research approaches and methods, concepts, definitions, theories, the research process itself, as well as results and findings, particularly their interpretations are conditioned by values and ideology. Consequently, any generalisations based upon them might be problematic and shall be made cautiously.

3. Inclusion, Participation, Democracy and Political Participation of National Minorities

Being included as an individual and as a member of a group or community (as a specific collective entity), belonging to a group or community and being able to participate in the decision-making and (social) life in one's environment seem to be basic human needs. In many ways, these needs define us as individuals and as members of a certain collective entity. Being included feels good and, consequently, offers and strengthens the feeling of our personal/individual safety as well as security that, ideally, we can describe and realise as human security.[10]

The Jeffersonian definition of democracy as the rule of the people, by the people, for the people seems to be broadly accepted and reflects its etymological origins and historic development.[11] The majority of scholars and authors writing about democracy as well as the public agree that the origins and early development of (political) democracy are linked to Athenian democracy in antiquity. Although some developments relevant for the evolution and development of democracy happened in between, the past three centuries are considered crucial for the development and evolution of modern democracy. In this period, modern political thought and theory of democracy, the concept of constitutional democracies as well as democratic ideologies, programmes and politics developed that encouraged and were used by political movements and elites that pursued and brought about democratic reforms and revolutions in states that evolved and, particularly in the European context, transformed into constitutional democracies and nation-states. Simultaneously, the aspirations of the people as the citizens of constitutional democracies to participate in democratic political processes and decision-making in accordance with constitutions and law grew and strengthened. Because of their pressure and political struggles, in addition to male citizens of age, initially often required to have a permanent residence and property, new groups and strata of the population[12] were included in democratic political processes as the number and share of those entitled to participate increased. Although they had to fight their way into democratic citizenry, once formally included they became entitled to enjoy political rights, including the right to participate as well as all other (human) rights that a democratic system guaranteed. The evolution of modern political democracy transformed its nature and functioning, replacing or at least complementing the initial principle

and practice of simple majority rule by limited majority rule and the protection of minorities.[13] In my view, however, political democracy as a specific type of social and political organisation and participation of the citizens in decision-making in (nation)-states formally declared as constitutional democracies is just a certain segment and specific dimension of true democracy that needs to encompass all spheres, segments and dimensions of (social) life. Consequently, in addition to political democracy and political rights, true democracy requires also the existence of social, economic and industrial democracy, as well as actual and holistic implementation of all human rights and freedoms. In this context, we could say that human needs and desires to be included and participate in as well as to belong to a community that I consider the basic content of true democracy predated the emergence of states (even in the form of proto-states) and the introduction of political democracy. As such, human aspirations for democracy might be as old as humanity.

The transformation of (pre-modern) states and empires into modern nation-states determined as constitutional democracies, as well as the development and historic evolution of modern political democracy are central for the political participation of national minorities. National minorities as we know them today appeared when nation states emerged as a direct consequence of this transformation of states. When a state acquired its ethnic dimension[14] and became a national state of the respective titular (ethnic) nation that usually represented a majority of its population or, at least, a dominant ethnic group in it, those who ethnically did not belong to the titular nation became persons belonging to (i.e., members of) national minorities within the state. Initially, most nation states saw and treated them as problems and obstacles to desired national unity and ethnic homogeneity. Gradually, simultaneously with the development and evolution of political democracy and human rights, most states formally recognised their existence, while some also granted and guaranteed their (special) minority rights and protection. One of those minority rights is the right of persons belonging to national minorities to political participation, considered instrumental also for the implementation of other minority rights (Žagar 2002).

The case studies in this thematic issue, particularly the first one, discuss the theoretical framework and concepts of political participation of national minorities in specific states and in general. Avoiding unnecessary repetition, this section addresses just a few selected topics that are not discussed extensively in the following articles, but – in my view – determine a broader framework and might be useful for a better understanding and interpretation of the case studies.

For various reasons often addressed in the scholarly literature,[15] and particularly due to the reluctance of states to accept international standards that might impose new obligations on them, there is no universally accepted legal definition of national minorities. However, reflecting the complexity of the phenomenon and its interactions with respective environments and majorities

and other minorities there, we can find several different definitions of minorities in the scholarly literature that reflect specific interests, views and positions of authors as well as specific situations and broader contexts (Jackson-Preece 2014, Žagar 2002). Consequently, regardless of the existing international legal standards, it is largely the states that decide if and how they (are going to) define and treat their national minorities. In some states that recognise the existence of national minorities and grant them minority rights and protection, the national legislation determines the (official) definition of national, linguistic, cultural and/or ethnic minorities in their national legislation, while in other states that recognise and protect their national minorities this is not the case. In this context, the lack of the (official) legal definition might not be a problem, as it allows for faster evolution and development of minority protection if the countries and regimes are willing to provide the highest standards of minority rights and protection to their national and other minorities. It could even be an advantage for minorities if a certain regime is willing to grant these rights and protection to new minorities that might not satisfy all the criteria spelled out by the traditional definition, thereby improving their inclusion, integration, social and political participation.[16] However, in reality, particularly in times of crises when the situations, regimes and (public) opinion are not minority friendly and willing to improve the protection and status of minorities, the absence of the official definition might be a problem for minorities as it might result in lower (possibly, gradually decreasing) standards of minority protection.

In the absence of an universally accepted definition, most frequently the definition of national minorities of Francesco Capotorti is used by scholars, states, different institutions and international organisations as well as in expert discussions; this definition states that a national minority is

> /.../ a group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members – being nationals of the state – possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language (Capotorti 1977, 96, 1991, 98).[17]

In discussions on the inclusion, integration and social and political participation of national minorities, considering particularly the right of the persons belonging to minorities to political participation, it is important to stress that, as collective entities, all majorities and minorities in contemporary societies are complex social phenomena. They are structured and complex, internally plural and diverse, non-homogeneous, dynamic and constantly evolving (social) processes that interact and interrelate with other social and natural phenomena in respective environments. Thereby, they are actors of the constant (re)shaping of their environments. Consequently, we could describe majorities

and minorities as complex coalitions of interacting and interdependent diverse (smaller) segments and structures with their specific life, characteristics, needs and interests. In this context, both majorities and minorities can be interpreted as dynamic and usually complex coalitions of diverse interconnected minorities. Internal pluralism and diversities, particularly different needs and interests that exist within every majority and minority in a certain environment, result also in the existence of political pluralism within those collective entities. In other words, majorities as well as minorities in contemporary plural societies are not homogenous and uniform. In more than twenty-five years my research into minorities, their cultural, social and political life, their cultural, social, economic and political organisation and activities in several European countries, but also in Africa, America, Asia and Australia, has confirmed that fact constantly. Although on average, there are just some 1 to 10 percent (seldom more) of persons belonging to minorities that are socially, culturally and politically active and (as activists) included in different (minority) associations, organisations, institutions and activities, I have detected internal pluralism and differences in every case I have studied. Consequently, I believe that internal homogeneity in the political or any other sphere of life should not be imposed on minorities – either by minority organisations, institutions, activists and political leaders within a respective minority, or by their broader environments (more precisely, by other minorities and majorities or organisations and institutions in the respective environments). Furthermore, I believe that a truly democratic environment should recognise the existence of internal pluralism and diversity within minorities and create adequate conditions for their (free) expression, which includes the context of political participation. In my view, imposed homogenisation is incompatible with democracy.

My research also confirms that any radicalisation in minority politics and policies (even with the intention of promoting and developing minority rights and improving the situation and position of certain minorities) might harm minorities[18] as it might result in radicalised and hostile discourse, reluctance, interference and problems in communication or even the break-down of communication, increased tensions and escalated conflict. Consequently, radicalisation frequently reduces tolerance and the willingness to include and integrate minorities and persons belonging to them, thereby negatively affecting their social and political participation in a certain environment.

Finally, in the form of a brief schematic overview, I present a theoretical model of (social and) political participation of (national) minorities that I developed for and use in my research of this phenomena. This model, used as a tool and yardstick, proved useful in various case studies of participation of minorities in individual environments, in my comparative research and in developing theory. In the model that serves as a checklist in researching political participation and representation of (national) minorities, I list some approaches to as well as

concepts, types and mechanisms of political participation of national minorities. This theoretical model evolves constantly, considering the specific topics, needs and interests of my research and is updated and supplemented. I am aware that each element of the model would deserve a special study and thorough elaboration, which would require another thematic issue or a monograph. At this point, it is just an attempt to systemise and classify presented approaches, concepts, types and mechanisms, thereby providing a possible tool for further exploration of the social and political participation of minorities in plural environments, but also for the understanding, analysis and interpretation of the following case studies.

(THEORETICAL) MODEL OF SOCIAL AND POLITICAL PARTICIPATION OF (NATIONAL) MINORITIES AND PERSONS BELONGING TO THEM

I. General approaches to political participation of (national) minorities:

a. Formal participation: constitutionally and legally determined and guaranteed direct and indirect participation, including representation in legislative and executive branches of government at different levels and in public administration; formal basis and existence of consultative bodies and mechanisms[19]
b. Informal participation: informal inclusion (usually based on specific policies, agreements and decisions) in political processes and decision making; lobbying

   Political parties, movements, organisations and associations:
   - Inclusion in mainstream political parties
   - Minority political parties
   - Other forms of social and political associations and organisations
   - Organised actions and movements

c. (Neo)Corporatist approaches, arrangements, bodies, processes and mechanisms (particularly in the form of consultations and consultative bodies that include different relevant social and political actors, including trade unions that can influence decision-making)
d. Consociative arrangements: elite power-sharing arrangements and systems, possibly legally regulated and/or informal
e. Basic principles: human rights and democracy, equal rights, equality and justice, non-discrimination, limited majority rule, special rights and protection of minorities, inclusion and integration (policies)
f. Specific systems and mechanisms of minority protection (at all levels), based upon the special rights of minorities

II. Concepts, types and mechanisms of political participation of (national) minorities:

a. Elections and electoral systems:
   - Reserved minority seats – direct representation of minorities in legislative and representative bodies at different levels, usually representatives elected from special minority lists or in special minority electoral districts (possible also in the first-past-the-post systems)
   - Special minority thresholds, possibly special quotas that ensure over-proportional representation of minorities
   - Minimal quotas of minority representatives (possibly with the provision that they should be placed on the posts that allow for their election) on the lists of mainstream parties
   - No formal special minority thresholds and quotas for the participation of minorities, but informal political agreement(s) or declaration(s) of (at least) some mainstream political parties that they will include a certain number or share of minority candidates on their electoral tickets/lists

b. Political processes and parties:
   - Inclusion and participation of minority politicians and representatives in mainstream political parties, determined by their statutes/constitutions, programmes or by specific arrangements or policies; in some cases those internal rules establish (minimal) quotas for national and other (e.g., gender, class, etc.) minorities
   - Inter-party cooperation and consensus building on minority (related) issues
   - Minority political parties and their participation in political life and processes, including elections

c. Special procedures of decision making, including minority veto and obligatory or consultative opinions of minority institutions, organisations and/or representatives or joint consultative bodies, preferably determined and regulated by law to ensure the necessary stability or, at least, by political agreements

d. Inclusion of minority representatives and elites in policy formulation and decision-making through various (Neo)Corporatist and Consociative arrangements and/or (formal and informal) bodies and institutions at all levels of government (from local to national), in different environments and in different contexts

e. Affirmative action and other affirmative measures to promote inclusion and integration of minorities and persons belonging to them (sometimes described as actions and policies of positive discrimination)

f. At least proportional, if possible over-proportional employment (quotas) of persons belonging to minorities in the public and private sectors, particularly among public/civil servants in state administration and public institutions

g. Monitoring of the situation, position and status of minorities and persons belonging to them; internal and external mechanisms
h. Autonomies – minority autonomy, particularly as diverse arrangements of self-rule and management at different levels (from local to national):
   I. Formal and informal autonomies:
      1. Normative foundations and framework:
         a. Constitutional
         b. Legal
         c. Political
         d. Social consensus, usually informal (civic society, self-governing, etc. → fields, such as culture, sports, etc.)
      2. Extent and borders/limits of autonomy (geographic, functional)
      3. Content of autonomy (fields, powers, institutions, etc.)
   II. Territorial autonomies:
      1. Federalism (always constitutional)
      2. Regionalism (constitutional and/or legal)
   III. Non-territorial autonomies:
      1. Functional and personal autonomies (legal and/or political, possibly based upon (formal or informal) social consensus)
      2. Cultural autonomy (legal and/or political)

As mentioned, the presented theoretical model presents just a framework of reference, practical research tool and yardstick that, generally, can be used in research and interpretation of research results. Consequently, it could be useful also in interpretation, systemisation and classification of the results and findings presented by the following articles.

5. Conclusion

With the aim of introducing the following case studies on selected countries of the CEI area, this introductory contribution addresses just a few issues and general framework(s) related to the social and political participation of national and possibly also other minorities and persons belonging to those minorities in contemporary plural and diverse societies declared to be constitutional democracies. Discussing the social and political participation of minorities, in conclusion I would argue that its main goal and logic should be to promote, stimulate and enable voluntary, fair/just, equal and full social and political inclusion and integration of minorities and persons belonging to them. Their inclusion and integration, including their social and political participation, should be based upon principles of equal rights, equality, justice and solidarity, as well as human rights and freedoms and in this context (special) minority rights. In this process societies shall utilise and adequately combine all approa-

ches, procedures, tools, mechanisms and solutions of social, economic, cultural and political inclusion, integration and participation of minorities listed in the presented theoretical model, as well as those solutions that might exist in different environments. Among other things, these approaches, procedures, tools, mechanisms and solutions could include human rights, including minority rights and protection, all types and kinds of autonomy, inclusion and integration policies, programmes and actions, consultative (e.g. through consultative mechanisms and bodies) and representative presence and representation (e.g., through reserved seats, quotas, over-proportional representation) in decision making processes, etc.

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Notes

[1] The Special Statute of the London Memorandum of 1954 (officially titled the Memorandum of Understanding between the Governments of Italy, the United Kingdom, the United States and Yugoslavia Regarding The Free Territory of Trieste, Annex II. Special Statute) regulated the rights of national minorities in the former Free Territory of Trieste – namely of the Slovene minority in Italy (that recognized these rights only in the territory of the former Zone A) and of the Italian minority in Yugoslavia (Jeri 1975, 544–548).

[2] See, e.g., information provided by the web-page National minority issues [OSCE].

[3] Traite entre la Republique socialiste federative de Yugoslavie et la Republique Italienne/Treaty between Italy and Yugoslavia (UN Treaty No. 24848), for more on Osimo Treaty see, e.g., *Osimski sporazumi* 1977, 324–507.

[4] The Republic of Italy recognized the Republic of Slovenia as the successor of the Socialist Federative Republic of Yugoslavia with regard to the Treaty of Osimo (Drčar-Murko 1996).

[5] In studying complex social phenomena and issues, disciplinary approaches and methodologies often prove to be inadequate. Consequently, new approaches and methodologies are being searched for and developed in social sciences that can be described as methodological pluralism. Reflecting the importance of this issue, one can find also a growing body of relevant scholarly literature (e.g., Della Porta & Keating 2008).

[6] Discussions on the objectivity and subjectivity of research and particularly of social sciences have continued for several decades. Research methodologies and apparatus used strictly by researchers should contribute to the greater objectivity of research in the field of social sciences. However, as Gunnar Myrdall (1969) observes research, research results and particularly their interpretation in the social sciences and humanities, but also in other sciences, including natural sciences and disciplines are never value and ideology free.

[7] The end of a specific social phenomenon can be and frequently is its transformation into another phenomenon or phenomena. In such cases, sometimes it might be difficult to determine the exact point of transformation (often this depends on the definitions and criteria used) and consequently it might be better to speak of a period of transition.

[8] Referring to all diverse processes and networks with which respective phenomena or their specific segments and/or dimensions are interwoven and connected.

[9] Including all micro and macro environments in which respective phenomena exist, with which they are related and on which they are dependent.

[10] More on human security see e.g., *Human Security in Theory and Practice: An Overview of the Human Security Concept and the United Nations Trust Fund for Human Security* (UNTFHS 2009).

[11] The term democracy derives from the ancient Greek word demokratia, composed of two root words, demos meaning the people and kratein meaning to rule. In ancient Athenian democracy, the term and concept referred to the (political) power of free male citizens that were formally politically equal, while all others were excluded. English (in the sixteenth century) and the majority of other (modern) European languages borrowed the French word democratie that, of course, derived from the ancient Greek root word (Held 2016).

[12] Such as those citizens, economically weaker and without property, former slaves (following the abolition of slavery in respective states) and in the twentieth century women, following the successful fight of the suffragettes and women's movements for general and universal suffrage.

[13] See e.g., Barber 1984, 1998, Beyme 2002, Bobbio, 1987, 1995, 2005, Butler et al. 2016, Dahl 1982, 1989, 1998, 2006, Held, 2000, 2016, Lijphart 1999, Lipset 1981, Sartori 1987, 2000, 2008, etc.

[14] The ethnic dimension(s) of respective nation states, most frequently perceived as (ethnically homogenous) single nation states of titular nations, was determined by the introduction of official language and history, constituent myths of common origin and culture, etc.

[15] For a brief overview, see e.g., Žagar (2002).

[16] To show the relationship (and, consequently, hierarchy) between two key concepts, indicating that political participation is just a segment of broader social participation, in my research and for the purpose of this article, I decided to use this terminology also with regard to the participation of national minorities and persons belonging to them. In this context, the term social participation indicates (ideally, effective, full and equal) inclusion and participation of all individuals (individually and in cooperation with others) and distinct collective entities (collectively) in all spheres and segments of social life – understood as the life in and of a respective society. From this perspective, political life is just a segment of social life and political participation just a segment of social participation. The same applies to participation in economic, cultural and educational life, participation in all public and social services, particularly in public administration and in the structures and services of the welfare state (social life in a narrower sense, refereeing to social security and other aspects of human security) as well as participation in all spheres and structures of civic society. Consequently, the terminology regarding participation of minorities used in this article differs from the terminology most frequently used by official documents and scholars. They use the terminology of Advisory Committee on The Framework Convention for the Protection of National Minorities Commentary on The Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs (ACFC/31DOC(2008)001 – usually referred to as the ACFC (Thematic) Commentary No. 2). In my view, however, the effective individual participation of persons belonging to national minorities in cultural, social and economic life and in public affairs (i.e., political participation) does not include all the segments of social life indicated above.

[17] This definition has been incorporated into some national minority legislation. In the CEI area we could mention Croatia and its Constitutional Law on the Rights of National Minorities (13 December 2002), of which Article 5 reads:

A national minority within the terms of this Law shall be considered a group of Croatian citizens whose members have been traditionally inhabiting the territory of the Republic of Croatia and whose ethnic, linguistic, cultural and/ or religious characteristics differ from the rest of the population, and who are motivated to preserve these characteristics.

[18] See perceptions of some minority members of Serbian community in Bela krajina in Slovenia (Bešter et al. 2015, 188).

[19] Such is Slovene case of the Roma municipal councilors (Bešter et al. 2017).

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Zaira Vidau

What Kind of Involvement for National Minorities in the Political Decision-Making Process? An Overview of the Case of the Slovenes in Italy

The paper examines participation through representation in elected bodies and participation in consultative bodies for Slovenes in Italy. The legal framework for political participation for Slovenes in Italy is also discussed. Recent legal reforms of the Italian public administration at national and regional levels are considered since they reduce the level of the participation of Slovene representatives in decision-making processes, as well as limiting the public use of Slovene. The analysis shows that the presence of Slovene-speaking elected representatives in some municipalities has not yet been accomplished. Moreover, the question of various forms of political participation at the level of legal provisions on the rights of Slovenes in Italy remains unsettled.

Keywords: Slovenes in Italy, political participation of national minorities, legal protection of national minorities.

Vključevanje narodnih manjšin v politične procese odločanja: splošni pregled primera Slovencev v Italiji

Prispevek obravnava participacijo Slovencev v Italiji z vidika predstavništva v izvoljenih telesih in udeležbe v posvetovalnih telesih. Avtorica razpravlja tudi o zakonskem okviru politične participacije Slovencev v Italiji. Analiza upošteva sodobne reforme italijanske javne uprave na državni in deželni ravni, saj slednje znižujejo raven participacije slovenskih predstavnikov v procesih odločanja in omejujejo javno rabo slovenskega jezika. Analiza pokaže, da v nekaterih občinah še vedno ni slovensko govorečih izvoljenih predstavnikov. Poleg tega ostaja na ravni zakonodaje o pravicah Slovencev v Italiji nerešeno vprašanje različnih oblik politične participacije.

Ključne besede: *Slovenci v Italiji, politična participacija narodnih manjšin, zakonska zaščita narodnih manjšin.*

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1. Introduction

In addition to the public use of minority and regional languages, the educational systems in these languages and the cultural autonomy of national and linguistic minorities, the question of the political participation of national and linguistic minorities is a fundamental issue. Linguistic, educational and cultural rights cannot be guaranteed without effective participation of national and linguistic minorities in decision-making processes, particularly on issues of direct concern to them, including education, language use and cultural institutions. Different forms and mechanisms of the political participation of minorities mean that diversity must be considered in terms both of equal participation and representation of minorities in the overall society, as well as involving and representing the differences within minority communities. Research work in this field also contributes to overcoming the concept that national and linguistic minorities are just cultural groups, as these communities are also political communities which affect the socio-political and economic relations in the areas where they live.

The paper will present the case of the Slovenes in Italy and the forms of political participation which have been developed for this national minority. The analysis comprises an overview of the recent legislation for the protection of Slovenes in Italy regarding participation in decision-making processes and focusing on the Norms Concerning the Protection of the Slovene Linguistic Minority in the Region Friuli Venezia Giulia (State Protection Law 38/2001) and on the Regional Norms Concerning the Protection of the Slovene Linguistic Minority (Regional Protection Law 26/2007). The participation of representatives of this minority in electoral processes will be considered in light of some recent empirical data. Some of the main consultative institutional bodies that enable Slovene representatives to negotiate issues with the centres of power will also be included in the analysis. Moreover, the paper will discuss some relevant changes in the legislation on the structure and activities of the public administration in Italy and their impact at the level of political participation of Slovene representatives. The analysis will show how a weak normative basis concerning the forms of political participation regarding this national minority in Italy affects the level of inclusion in political decision-making processes of its representatives as well as the public use of Slovene due to recent Italian reforms of local government.

2. The Theoretical Framework on Political Participation of National and Linguistic Minorities

Based on legal and political instruments of self-determination and involvement in processes of political decision-making, the concept of political participation

grants national minorities substantive equality with the majority nation (Palermo & Woelk 2003, 228–241). The right of national minorities to political participation represents a limitation of the absolute rule of the majority which prevent "a permanent monopoly of power by any social structure and enable equal competition of political actors in their struggle for (political) power" (Žagar 2005, 48). It relies on the fundamental principles of "self-rule" and "power-sharing" (Schneckener 2004, 18–23).[1] The former refers to the possibility for the minority community to reach (at least to a certain extent) independent decisions on political, economic, cultural and social matters. The latter concerns the minority's specific representative rights in the overall political system, which may range from the right to have its own political representatives in the parliament, all the way to complete power-sharing systems. According to Weller (2010, 477), minority participation intended "in the sense of minority self-government either by way of cultural autonomy or possibly even through elements of territorial autonomy", represents the first phase where minority participation is conceived as an "inward-looking entitlement of a group". A second phase occurs when "minorities have a role to play in determining the public policy of the overall state, rather than just in relation to internal decision-making within the group" (Weller 2010, 478).[2]

Participation of political representatives of minorities in elections and their election to state and local political institutions are the most common mechanisms of the political participation of ethnic minorities (Palermo & Woelk 2003, 228–241, Pan & Pfeil 2003). O'Leary (2010, 399) argues that "a fair electoral system, fairly regulated, and transparently designed to provide both participation and autonomy opportunities to national minorities, will reduce the temptations, and the justifications, for parties among national minorities to become 'anti-system'". In proportional electoral systems the easiest way to support the election of minority parties' representatives is to reduce or even eliminate the threshold for their election (Žagar 2005, 70). Melansek (2010, 358) stresses the meaning of the electoral rights of minorities which "had become an important election standard when drawing election boundaries and delineating constituencies". Thus, in mixed and majority electoral systems special attention can be given to the way constituencies are conceived in order to draw up such a constituency where minority member voters can elect their representative or even to create a "minority" constituency (Žagar 2005, 70).[3]

According to Protsyk (2010, 400) electoral rules and legislation on political parties affect how minorities are represented in parliament, but his point can be extended to elected bodies on different governmental levels (besides parliaments, also regions, provinces, municipalities). In practice, if the existing laws relevant for political participation of national minorities do not contain specific provisions that guarantee or at least facilitate their representation, minority representation in regional and municipal councils is rather limited,

which is confirmed at the empirical level by the election results documented by Constantin in the case of the Slovak system of minority protection and their political representation (Constantin 2010, 42). Moreover, Protsyk (2010, 413) notices that "whether ethnic minorities are present in national legislative assemblies, whether their voices are heard and whether their interests are taken into account are all important indicators of the ability of the minority to effectively participate in the political process" which can be again extended to various elected bodies (national, regional and local).

Although this paper will treat mainly participation through representation in elected bodies at the local level and to some extent participation in consultative bodies in the specific case of the Slovene national community in Italy, the perspective in the academic debate concerning the possible future developments of new forms of minority participation should also be mentioned. Palermo (2010, 439) establishes that minority participation is currently more present "in areas where it is less effective (in elected bodies)", while minorities have less space in forms of participation in public life such as the public administration,

> even if these forms are more promising both because the public administration (including the government and the courts) is more influential than parliament and because representation in non-parliamentary bodies is more pluralist (thus more representative and therefore more effective) as it affects larger numbers of persons belonging to minorities (Palermo 2010, 439–440).

Thus, he underlines that there is still much work to do to identify the most effective instruments to develop proper forms of "guaranteed participation in the civil service, and generally through the branches of government other than the legislature" (Palermo 2010, 452). Similarly, Weller (2010, 479) argues that the contemporary so-called "fourth generation of debates" should widen the consultative mechanisms of minorities in public life, incorporating "the economic and social dimension" to promote full integration in economic and social issues.

3. General Legal Framework for Slovenes in Italy

The Slovene national community in Italy is a border-area national minority in the traditional sense of the term, as it acquired the minority status in the process of nation-state formation in the Upper Adriatic from the second half of the 19th century onwards.[4] Its traditional settlement area in the Friuli Venezia Giulia (FVG) region covers a total of 39 municipalities along the border with Slovenia (Bogatec, 2004). From a formal point of view, according to the list of municipalities drawn up on the basis of the State Protection Law 38/2001, the presence of this community is documented in a more narrow territory of 32

municipalities[5] in the provinces of Gorizia (Gorica), Trieste (Trst) and Udine (Videm or Viden) in the areas of Benecia (Benečija), Resia (Rezija) and Val Canale (Kanalska dolina).

Slovenes in the provinces of Trieste (Trst), Gorizia (Gorica) and Udine (Videm) have established a thriving network of activities, institutions and associations which focus mainly on cultural and sports activities in the framework of professional institutions or in grassroots associations, parishes and other centres (Kosic et al. 2013). Slovene-medium kindergartens and schools have been set up in the provinces of Trieste (Trst) and Gorizia (Gorica), and a bilingual Slovene-Italian kindergarten and school centre in S. Pietro al Natisone (Špeter) in the province of Udine (Videm). Media communication in Slovene takes place at the level of public radio and television within the regional headquarters of Italy's national public broadcasting company RAI and through various forms of print and online media. The Slovene language can be used in interactions between the public administration and the public: such as communication through linguistic help desks or directly through bilingual staff, but the impact of this system on the public use of Slovene language is rather weak as these services are not properly promoted and their use among minority members has not yet become widespread (Vidau 2012, 2014, 2015). Moreover, the project-based funding system does not enable public administrations to cover the costs of permanently employed Slovene-speaking staff, thus the language services are of limited duration and dependent on project funds (Vidau 2012, 2015). Slovene can also be used in place names and road signs in the legally defined area, although recent studies showed that Slovene does not enjoy a high status in the linguistic landscape (Mezgec 2016).

There are various legal provisions regulating the minority rights of this community deriving from the post-war international agreements and recent Italian laws. The first international legal source that provided Slovenes living in Italy with a basic form of legal protection was the Special Statute of the London Memorandum of 1954, which laid down a number of political and social rights, such as: the right to use their language in interactions with administrative services and judicial authorities; the right to bilingual public signs and printed publications; the right to bilingualism in educational, cultural and other organizations; the right to public funding intended for these organizations; the right to instruction in their mother tongue and the right to preserve the existing Slovene schools (Stranj 1992). These rights continue to form a model for the protection of the Slovene minority in Italy. The territorial scope of these rights was limited only in the area of the former Zone A which covered the present province of Trieste (Trst). This meant that the Slovene population in the area of Gorizia (Gorica) and Udine (Videm) was in a different legal position. In the area of Gorizia (Gorica) certain acquisitions from the period of the Allied Military Government between 1945 and 1947 were preserved (e.g., the public use of

Slovene language and bilingual signs in some municipalities with an entirely Slovene population) (Troha 2003). In the area of Udine (Videm), the Slovene population was not legally recognized until 2001, and until the adoption of the State Protection Law 38. The Italian government adopted the content of the London Memorandum in 1975 by signing the Treaty of Osimo.

Among the recent Italian laws, the most relevant is State Law 38/2001 regarding the protection of the Slovene linguistic minority, which was acquired when the State Framework Law 482/1999 for the protection of historical linguistic minorities was already in effect. It recognises the Slovene national minority living in the provinces of Trieste (Trst), Gorizia (Gorica) and Udine (Videm) as a single entity, whose members enjoy equal rights regardless of their province of residence. The Law covers various aspects of minority rights: the right to use one's name and surname in the mother tongue; to use spoken and written Slovene in interactions with public institutions; to use Slovene in elected assemblies and collegiate bodies; to visual use of bilingualism and to bilingual topographical indications; to education in the minority language; to the restitution of property to Slovene organizations confiscated during the Fascist period; to the protection of historical and artistic heritage at the level of public planning, land use, economic, social and urban planning; to trade unions and trade organizations; and to criminal proceedings related to expressions of intolerance and violence committed against members of the Slovene minority, etc. In 2007, the FVG region adopted Law 26 on the protection of the Slovene minority. Regional Protection Law 26/2007 regulates some central fields of legal protection: international relations with the country of cultural and linguistic reference; inter-minority relations within FVG; recognition of minority umbrella organizations and other organizations; operation of regional advisory committees for different areas of application of legal provisions (particularly in education, language policy, and funding of each minority's organizations and associations); organization of regional conferences intended to evaluate and assess the implementation of legal provisions; proper public use and spelling of first and last names, titles and topographical indications in the minority language; the use of the minority language in the public administration and in the private sector; the use of the minority language in education and the media; the protection of the social, economic and environmental interests of minority communities; the implementation of activities promoting the minority language and its local variants; the protection of linguistic and cultural heritage; and procedures of funding minority organizations and associations (Vidau 2013).

3.1 Legislation on Political Participation for Slovenes in Italy

The State Protection Law 38/2001 does not in fact regulate the political participation of the Slovene national minority members. It contains only a general provision (Article 26) that the laws concerning the system of Italian

parliamentary elections should support access to representation for candidates belonging to the Slovene minority. Thus the question of political participation remains unsettled at the level of legal provisions (Vidau 2016a). The Slovene national community has no provisions for guaranteed representation through reserved seats or veto rights in the elected or consultative bodies on matters it considers of vital importance. Nor does the Regional Protection Law 26/2007 refer to any specific right of the Slovene minority regarding the election of its members to political bodies.

The only relevant article in State Protection Law 38/2001 regarding political participation is Article 9, which regulates the use of Slovene in the elected bodies at a local level, both regarding the councils, as well as the executive committees on the territory of the 32 municipalities where it can be applied. This article recognises the use of both oral and written Slovene during the various activities of these bodies (i.e. different kinds of proposals, questions, interrogations, minutes). To be applied, these provisions must be included in the statues and activity regulations of every elected body, namely municipalities and provinces (Vidau & Štoka 2015). The article also says that all the written or oral interventions must be translated into Italian. Members of the elected bodies can also use Slovene in all the public functions they hold. Moreover, the public services in the protected area can use both Slovene and Italian in their relationships. While the article gives the right to minority elected representatives as well as to the public bodies themselves to use Slovene, this language use cannot be exclusive, as in Italy the only state language is Italian (as written also in the first Article of the framework State Protection Law 482/1999) (Vidau 2015, 160).

Based on a recent analysis of the statutes, the municipalities applying these norms are the seven which already used Slovene in their activities before the recent State Protection Law 38/2001, in accordance with the provisions laid down by the Allied Military Government from the post-war period and the minority rights granted by the Special Statute of the London Memorandum (Vidau & Štoka 2015, 55–57). They have Slovene-speaking mayors, executive committees and councillors as well as administrative staff. The statutes of the Trieste (Trst) and Gorizia (Gorica) Provinces should also be mentioned, as they provide for the use of Slovene in their elected bodies due to the State Protection Law 38/2001, albeit in a more restricted way than the seven bilingual municipalities (Vidau & Štoka 2015, 59).

The Regional Protection Law 26/2007 contains some general references concerning the political participation of the Slovene minority in the FVG region, namely the recognition of the minority's main or umbrella organizations, which should be representative of the whole community and thus the political interlocutor with the regional authorities (Article 6). In Article 23, two umbrella organisations are mentioned: the Slovene Cultural and Economic Association (Slovenska kulturno-gospodarska zveza SKGZ) and the Confederation of

Slovenian Organisations (Svet slovenskih organizacij SSO). They bring together the majority of Slovene institutions and organizations from the provinces of Trieste (Trst), Gorizia (Gorica) and Udine (Videm). These two organizations are an expression of the civil society; however, they also appear in the political arena as interlocutors with various European, national, regional and local political institutions in Italy and Slovenia.

3.2 Legally Provided Consultative Bodies for Slovenes in Italy

Due to the State Protection Law 38/2001 and the Regional Protection Law 26/2007 different bodies of a consultative nature were established, which perform the function of direct interlocutors between the representatives of the Slovene minority in the FVG region and political administrators at national, regional and local levels in Italy. These are institutional bodies that enable Slovene representatives to negotiate issues that are critical to the Slovene national community in Italy with the centres of power at the state and local levels. Unfortunately, no recent analysis have been carried out concerning their impact on the decision-making processes in which they are involved as well as on the level of the overall minority rights protection that could help us to evaluate their activities in this paper.

On the basis of the State Protection Law 38/2001, the Institutional Parity Committee for the Problems of the Slovene Minority has been established, which is responsible for the implementation of the mentioned law. It consists of 10 members of the Slovene minority and 10 members of the Italian majority, who are appointed directly by the Council of Ministers, the Regional Assembly and the Regional Government of FVG and indirectly by representative organizations of the Slovene minority and the Assembly of the Elected Representatives of the Slovene Minority within local administrations.

At the regional level, there are also two commissions responsible for issues concerning the Slovene national community, which have been set up on the basis of the State and Regional Protection Laws 38/2001 and 26/2007. The Consultative Commission delivers opinions on issues and topics included in the Regional Protection Law 26/2007, on proposals for the allocation of financial funds by the state to the region that are intended for the activities of minority institutions and organizations, on issues of regional authorities and, more generally, on regional policy guidelines promoting cultural and linguistic diversity. Under the State Protection Law 38/2001, the Regional Education Commission is responsible for education in Slovene language.

The Slovene national community has at its disposal an additional instrument of political participation: the presence of its representatives in various consultative bodies of public administration, such as commissions. These are actively involved in the management and planning of interventions, which are also related to the interests of the Slovene national community. Both the State

Protection Law 38/2001 (Article 21), as well as the Regional Protection Law 26/2007 (Article 14), contain provisions on the protection of social, economic and environmental interests of the Slovene national community. On this legal basis, its representatives must be included in the consultative bodies dealing with administrative arrangements, land use, urban planning, and economic and social planning. However, these consultative bodies have not yet been determined. Moreover, we currently have no information whether the Slovene representatives have already been included in individual consultative bodies of public administrations.

At the level of consultative bodies, two in the province of Gorizia (Gorica) should also be mentioned. The statute of the province provides its own consultative body for the Slovene community, which has been operating since 1999, but due to recent reforms that abolished the provinces it is no longer active. It consisted of 15 members, who were very familiar with issues relating to the Slovene language and culture. Its members were appointed by each of the nine municipalities inhabited by the Slovene national community, by the Slovene School Union (Sindikat slovenskih šol) and by the umbrella organizations of the Slovene national community SKGZ (Slovenska kulturno-gospodarska zveza) and SSO (Svet slovenskih organizacij). Three members were appointed by the Province of Gorizia (Gorica). The statute of the municipality of Gorizia (Gorica) provides for a Consultative Committee for the Problems of Urban Ethnic Minorities. The Committee's Rules of Procedure stipulate that it is to be composed of 15 members appointed by the municipal council: three members of the Italian majority who are experts in the field of national minorities; two members from the ranks of the Slovene School Union (Sindikat slovenskih šol); five members from the ranks of SKGZ (Slovenska kulturno-gospodarska zveza) and five representatives from the Association of Slovene Catholic Educational Societies (Zveza slovenske katoliške prosvete).

4. Elected Representatives of Slovenes in Italy

Traditionally, members of the Slovene national minority in the FVG region identify mainly with left-wing or centre-left parties (e.g. Democratic Party, Communist Refoundation Party, Italian Communist Party). Since the 1990s, political activity in the context of Italian parties has expanded, although to a lesser extent, through the involvement of Slovene candidates in centre-right and right-wing parties (e.g. the People of Freedom, Northern League) and contemporary political movements (Five Star Movement). Thus, the Slovenes in Italy vary in terms of their political and ideological positions, although there is no data on the basis of which to differentiate the votes in the provinces of Trieste (Trst), Gorizia (Gorica) and Udine (Videm) according to the ethnicity of voters (Janežič 2004).

In terms of its political activities, the Slovene national community is integrated into the Italian political system and reflects its characteristics concerning the legislation and implementation of elections at national and local levels, as well as political parties. Its members are politically active in Italian majority parties as well as in the Slovene ethnic party the Slovene Union (Slovenska skupnost), which defines itself as an assembly of members of the Slovene minority. The issue of political engagement either through an ethnic party or under the auspices of Italian parties is a topical issue among the Slovene minority. Left-wing political representatives support political action within the framework of Italian left-wing and centre-left parties, in the form of separate sections and through Slovene candidates. On the other hand, the Slovene Union advocates the model of political participation through a single party and political autonomy on the basis of ethnicity (Valenčič 2000, 188).[6] For specific socially and politically important events and meetings with the authorities, a joint representation is usually formed. This practice was introduced in the 1970s, when the adoption of the law on the protection of the Slovene national minority in Italy became a transversal policy objective among Slovene politicians, which also triggered the need for a unified political appearance before the Italian authorities (Stranj 1992). Although the composition of this body may vary according to need, it normally consists of the already elected national, regional and local political representatives and typically comprises one representative from the ranks of left-centrist and leftist parties in addition to representatives of the two umbrella organizations of the Slovene Cultural and Economic Association (SKGZ) and of the Confederation of Slovenian Organisations (SSO).

Political representatives of the Slovene national community in Italy have so far been regularly elected to provincial and municipal bodies, the Regional Assembly of the Autonomous Region of Friuli Venezia Giulia and to the Italian Parliament; however, their election is not guaranteed by law. The electoral Law of the Autonomous Region of Friuli Venezia Giulia (Regional Law 17/2007), which provides for a reduced threshold in the election of a candidate from the Slovene Union, is a notable exception. At all local, provincial or state-level elections, political and party coalitions are being formed. Within individual parties, these coalitions allow for the election of political representatives who are recognized as members of the Slovene national community and who therefore promote its interests. In this context, the Slovene ethnic party and Slovene candidates competing within Italian parties work closely in various groupings.[7]

Several elected representatives of the Slovene national community can be found in provincial and municipal councils of the provinces of Trieste (Trst), Gorizia (Gorica) and Udine (Videm) in the area of the 32 municipalities covered by the State Protection Law 38/2001.[8] According to a recent analysis, there were 138 elected Slovene representatives in 20 municipal and provincial councils of the provinces of Trieste (Trst) and Gorizia (Gorica) (Vidau 2016b).

Of these, eight belonged to provincial councils: five councillors in the Province of Trieste (Trst) and three councillors in the Province of Gorizia (Gorica). The remaining 130 elected Slovene representatives belonged to municipal councils of 20 municipal administrations.[9] They are almost evenly distributed between the three provinces: 32 per cent of Slovene councillors in the six municipalities of the province of Trieste (Trst), 33 per cent of Slovene councillors in the four municipalities of the province of Gorizia (Gorica) and 35 per cent of Slovene councillors in the ten municipalities of the province of Udine (Videm).

The data on Slovene-speaking councillors can also be compared with the total number of councillors in the area where the presence of the Slovene national community has been legally defined by the State Protection Law 38/2001, with 23 per cent of Slovene-speaking councillors in the 32 municipalities and three provinces (Vidau 2016b). The data on their share within individual municipal administrations shows that the presence of Slovene-speaking councillors is highest in the bilingual municipalities of the provinces of Trieste (Trst) and Gorizia (Gorica), where it ranges from almost a half to a full share of Slovene-speaking councillors. In the province of Udine (Videm), the shares of elected Slovene-speaking representatives in municipal councils range from 15 per cent to 62 per cent. The lowest proportions of Slovene-speaking representatives can be found in the municipalities of Muggia (Milje) (5 per cent), Trieste (Trst) (5 per cent) and Gorizia (Gorica) (10 per cent). This situation is also related to the dual system of the public use of Slovene language in dealings between public institutions and the citizens in the 32 municipalities in the legally protected Slovene-speaking area. The first system applies to seven bilingual municipalities in the areas of Trieste (Trst) and Gorizia (Gorica),[10] where administrative staff engage in oral and written communication with the public in Slovene in accordance with the provisions laid down by the Allied Military Government from the post-war period, the minority rights granted by the Special Statute of the London Memorandum and from 1992 onward,[11] in accordance with their own statutes. The second system concerns the establishment of linguistic help desks, adopted on the basis of State Protection Law 482/1999, which granted funding for these types of minority-language services prior to State Protection Law 38/2001. Other municipalities started introducing the public use of Slovene in interactions with the public in 2011 with the provision of annual funding in line with State Protection Law 38/2001. These dedicated language services have also been introduced by the Provinces of Trieste (Trst), Gorizia (Gorica) and Udine (Videm).

In 2014, some of the elected Slovene-speaking representatives assumed the position of mayor: in seven bilingual municipalities in the provinces of Trieste (Trst) and Gorizia (Gorica) and in five municipalities in the province of Udine (Videm) (Vidau 2016b). Of the above-mentioned Slovene-speaking elected representatives, a total of 20 performed the function of committee members.

Several Slovene-speaking representatives were also found in district councils of the Trieste (Trst) municipal administration; in some district councils they held the position of chairperson.

In 2016, in addition to the elected representatives to municipal and provincial bodies, Slovenes in Italy also had one elected representative in the Italian Parliament and two councillors in the FVG Regional Assembly. Of the latter, one elected regional representative held the office of the Vice-President of the Regional Assembly. He was elected due to the reduced threshold in the election of a candidate from the Slovene Union while the other Slovene-speaking regional councillor was elected on the list of the Democratic Party.

There are some relevant changes that have to be mentioned concerning the elected representatives of the Slovene national community in Italy which have lowered the level of the participation of its representatives in the decision-making processes in the short and probably the long term. Based on State Law 56/2014 the Provinces of Trieste (Trst) and Gorizia (Gorica) were abolished. As already mentioned in this paper, there were eight elected Slovene representatives in these two provinces as well as a consultative body at the Province of Gorizia (Gorica), thus the Slovene community lost a relevant number of political representatives who were involved in decision-making processes concerning the issues of territorial government, such as the development of tourism and agriculture in the provincial areas, the use of bilingual signs on roads and buildings in the charge of the provinces or the managing of Slovene school buildings. These matters were transferred to various departments of the FVG Region (e.g. road management), thus the decision-making processes regarding these issues became more centralized. Other matters were delegated to municipalities, such as the managing of school buildings, or to the unions of municipalities, a new administrative instrument led by the mayors of groups of municipalities on a certain area. These unions of municipalities are the consequence of the reform in the FVG region brought about by Regional Law 26/2014. As some of these unions were only just formed and others are still in the process of formation, it is not clear what role the mayors and councils of the smaller municipalities in the protected Slovene-speaking area will have compared to the big municipalities of Trieste (Trst), Gorizia (Gorica) or Udine (Videm). The question is still open about the public use of Slovene in the administrative procedures and documents which will be produced and used among these new unions. A relevant issue is also whether the unions will have a bilingual name or not, as some of them already adopted bilingual names (i.e. the union from the former Province of Trieste area, Unione Territoriale Intercomunale Giuliana/Julijska medobčinska teritorialna unija) while others not, even if they have bilingual municipalities among them (i.e. the union including a group of 15 municipalities from the former Province of Gorizia area, Unione Territoriale Intercomunale Collio – Alto Isonzo).

5. Conclusions

At the level of the representatives elected to local administrations in the provinces of Trieste (Trst), Gorizia (Gorica) and Udine (Videm), the presence of elected representatives of the Slovene national community in some municipalities has not yet been accomplished, even though these municipalities are on the list of the 32 municipalities comprising the legally defined area of the Slovene presence. This can be seen as an additional area of political participation which has not yet been fully developed and into which political strategies could be directed in order to ensure that in the remaining 12 municipalities Slovene-speaking political representatives are elected. Moreover, this issue is relevant as the presence of the Slovene national community in some of these municipalities is undoubtedly expressed in the form of Slovene-language education and Slovene associations. It must be stressed also that the recent abolition of the Provinces of Trieste (Trst) and Gorizia (Gorica) represents a heavy loss of elected representatives. Moreover, they were not replaced with other forms of representation in matters which were formerly under the provinces' remit. The newly formed unions of municipalities have just begun their activities, so it is not yet clear how the question of the public use of Slovene and the importance of Slovene-speaking mayors concerned with issues relevant to the minority community will be dealt with.

Also the fact that since the 1990s different representative and consultative bodies have emerged (the Institutional Parity Committee for the Problems of the Slovene Minority, the former consultative body for the Slovene community of the Province of Gorizia (Gorica) and a similar one at the Municipality of Gorizia (Gorica); two commissions at regional level, responsible for issues concerning the Slovene national community, etc.) has to be highlighted. These bodies play the role of intermediaries between the decision-making centres on the one hand and the Slovenian minority in Italy on the other. This indicates a higher degree of recognition of the Slovene minority's political role and a higher level of its integration into political processes. However, the question how effective they are when safeguarding the Slovene community's interests is still open, as there are no provisions for veto rights in these consultative bodies, even if they treat matters that are considered of vital importance to the community. To evaluate their efficiency a more detailed analysis regarding the impact of their activity should be carried out, including interviews with the persons leading these bodies or working within them.

To summarise: the question of various forms of political participation at the level of legal provisions on the rights of Slovenes in Italy remains unsettled. The Slovene national community has no provisions for guaranteed representation through reserved seats either in Parliament or at regional and local levels. The likelihood of minority representatives being elected depends on political nego-

tiations within and between the parties and on the importance Slovene-speaking voters have in the electoral processes.

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Notes

[1] According to O'Leary (2010, 364) "promoting the participation of national minorities in governmental decision-making at all levels, central, regional and local" as well as "promoting the self-government of such minorities through functional or territorial autonomy" are the "two core goals" of the Lund recommendation on the Effective Participation of National Minorities in Public Life.

[2] The third phase of discourse about minority political participation regards the development of "complex power-sharing techniques" to guarantee "the full and effective participation of persons belonging to minorities in all aspects of public policy and governance of the state" which happened especially after the violent ethno-political conflicts in Eastern Europe (Weller 2010, 478). The author explains that the aim of such systems is to develop a "sense of shared ownership of the state" among the minority members (Weller 2010, 478).

[3] Empirical observations show that "a constituency that differs excessively in size from other constituencies in the country challenges the principle of equal suffrage" (Melansek 2010, 358). Moreover, "the practice of gerrymandering by merging areas with different shares of minorities is heavily criticized and prohibited" (Melansek 2010, 358).

[4] The history of Slovenes now living in Italy is closely tied to the history of the entire Slovene nation and to the history of the Slavic tribes who settled in this area in the sixth century. Slovene national identity in the modern linguistic, social and political sense began developing, for the most part, in the nineteenth century during the period of European movements for the establishment of modern nations and nation states. At that time, the first Slovene reading clubs, societies, and political organizations were formed within the Austrian Empire in Trieste (Trst) and Gorizia (Gorica). For a short period of time between 1797 and 1866, the regions of Benecia (Benečija) and Resia (Rezija) were joined together with the rest of the Slovene settlement territory under the Habsburg Monarchy, but after that they were annexed to Italy. The Slovene settlement area of Trieste (Trst), Gorizia (Gorica) and Val Canale (Kanalska dolina) was severely affected by the dissolution of the Austro-Hungarian Empire after World War I, which marked a transition to Italian rule. This shift was followed by a period of forced assimilation, which reached its peak during the Fascist period. What followed were various forms of violence launched against institutions, associations and representatives of the Slovene minority and other citizens of Slovene nationality (Stranj, 1992, Sussi, 1998). As a result, Slovenes had already begun developing forms of an illegal anti-Fascist resistance movement by the mid-1920s. From 1941 onwards, this movement found its outlet in the Liberation Front of the Slovene Nation under the auspices of the Yugoslav National Liberation Army, an anti-Nazi and anti-Fascist resistance movement. During the post-war period, the Slovene settlement area bordering Italy was divided into several political units. Benecia and Val Canale were immediately re-annexed to Italy. The area of Trieste (Trst), Gorizia (Gorica) and Istria (Istra), on the other hand, was divided into two parts: Zone A comprising Trieste (Trst) and Gorizia (Gorica) came under Anglo-American administration and Zone B covering Istria (Istra) came under Yugoslavia (Stranj, 1992; Troha, 2003). With the Paris Peace Treaty of 1947, Gorizia (Gorica) was annexed to Italy and thus separated from its hinterland. As for Trieste (Trst), provisions were made for the establishment of the Free Territory of Trieste (Trst), which never actually came into effect. Trieste (Trst) in Zone A and part of Istria (Istra) in Zone B remained divided in this way until 1954, when under the London Memorandum an agreement was reached between the two parties, namely that Zone A with Trieste (Trst) would remain under Italy, and Zone B with Istria (Istra) would remain under Yugoslavia. This delineation was confirmed by the 1975 Treaty of Osimo concluded between Italy and Yugoslavia.

[5] On the basis of popular demand, municipalities were added to this list if they had at least 15 per cent of the population, or one-third of municipal advisors. The Institutional Parity Committee for the Problems of the Slovene Minority then finalised this list and submitted it for approval to the Ministerial Council in Rome. The list was approved on 3 August 2007, and on 12 September 2007 the President of the Republic Giorgio Napolitano signed the decree of its validity. This list may be extended if additional municipalities apply for inclusion.

[6] O'Leary (2010, 399) observes that some international positions such those in the Lund Recommendations do not support the creation of national minority parties while the author suggests that "a national minority is not a free national minority unless it has at least one nationalist party (with the word nationalist being used here in a non-pejorative way, and with no presumption being made that a nationalist must necessarily have a secessionist as opposed to an autonomist agenda)".

[7] At provincial elections in Trieste (Trst) in 2008, the *Slovenska skupnost* party, the Democratic Party and the two sections of communists appeared as competitors; while at local elections in the municipality of San Dorligo della Valle/Dolina in 2009 and the municipality of Duino-Aurisina/Devin-Nabrežina in 2012 they appeared in a coalition.

[8] The study took into account the list of members of the Assembly of the Elected Representatives of the Slovene Minority within local administrations in the provinces of Trieste (Trst), Gorizia (Gorica) and Udine (Videm) which operates at the Regional Assembly of the Autonomous Region of FVG with the elected representatives of the Slovene minority at administrative elections between 2009 and 2014. Determination of the elected representatives of the Slovene minority is based on self-declaration by each individual. The regional administration sends to the mayors of the municipal administrations and to the three provinces a letter requesting the names of their councillors who are representatives of the Slovene minority. At the request of the mayor or the president of the province, the councillors then define themselves in terms of their language/ethnicity. This is how the minimum number of Slovene-speaking councillors is determined; however, individual councillors may be left out of the process by missing the due date for their linguistic self-declaration. This happened in the case of a Slovene-speaking councillor in the Province of Udine (Videm) who was not included in this analysis, since he was excluded from the list of the Assembly of elected Slovene-speaking representatives.

[9] The sum of 20 municipalities accounts for almost two thirds, or, more specifically, 63 per cent, of the 32 municipalities that make up the area of the Slovene national community as legally defined by Protection Law 38/2001: 100 per cent of the municipalities in the province of Trieste (Trst), 50 per cent of the municipalities (or four municipalities out of eight) in the province of Gorizia (Gorica) and 56 per cent of the municipalities (or ten municipalities out of eighteen) in the province of Udine (Videm).

[10] San Dorligo della Valle/Dolina, Sgonico/Zgonik, Monrupino/Repentabor, Duino-Aurisina/Devin-Nabrežina, San Floriano del Collio/Števerjan, Doberdò del Lago/Doberdob and Savogna d'Isonzo/Sovodnje ob Soči.

[11] Based on State Law 142/1990 municipalities in Italy acquired autonomous forms of authority concerning their organization, financing and legislation on the basis of the principle of decentralization of the administration system in Italy (Coren 2003, 212). Due to this law, municipalities adopted their own statues in 1992.

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South Tyrol's Negotiated Autonomy

The study of South Tyrol's negotiated autonomy is both a way of understanding how the Italian Alpine area successfully accommodated its linguistic groups (German-, Italian- and Ladin-speakers), and why there are diverging opinions on how to revise its Second Autonomy Statute of 1972. The paper examines key actors and procedural mechanisms that contributed to the creation and implementation of South Tyrol's power-sharing system and minority regime. Firstly, it highlights the conflict settlement at international level in the aftermath of Second World War. Secondly, it scrutinizes the functioning of special bodies (the Commission of 19 and the Commission of Six) that crucially contributed to setting up South Tyrol's self-government regime. Thirdly, it gives evidence on both the legal framework as well as the bodies of the Autonomy Convention, a large-scaled consultative process that has the task to come up with proposals on how to revise the Second Autonomy Statute.

Keywords: South Tyrol, minority, autonomy, negotiation, Autonomy Convention.

Izpogajana avtonomija Južne Tirolske

Proučevanje izpogajane avtonomije Južne Tirolske kaže, kako je mogoče, da na tem italijanskem alpskem območju uspešno sobivajo tri jezikovne skupnosti (govorci nemškega, italijanskega in ladinskega jezika) in zakaj obstajajo različna mnenja o tem, kako spremeniti Drugi statut o avtonomiji iz leta 1972. Avtorica v članku obravnava ključne dejavnike in postopkovne mehanizme, ki so prispevali k zasnovi in uresničevanju participatornega sistema upravljanja in manjšinskega režima. Najprej osvetli poravnavo mednarodnega spora v času po drugi svetovni vojni, v nadaljevanju pa analizira delovanje posebnih teles (Komisija 19 in Skupne komisije), ki so bistveno prispevala k vzpostavitvi južnotirolskega samoupravnega režima. Članek v sklepnem delu obravnava pravni okvir in Konvencijo o avtonomiji, široko zasnovan posvetovalni proces participacije, ki je namenjen oblikovanju predlogov za revizijo Drugega statuta o avtonomiji.

Ključne besede: *Južna Tirolska, manjšine, avtonomija, pogajanja, Konvencija o avtonomiji.*

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1. Introduction

Twenty-five years have passed since the international conflict over South Tyrol was formally settled in 1992 by the handover to the UN secretary general of the deed of discharge by the Austrian and Italian governments. The submission of the letters (UN Document A/46/939 and A/46/940) by both parties acknowledged the end of the Austro-Italian dispute over South Tyrol (520,891 inhabitants, ASTAT 2016), the northernmost Italian territory inhabited by a majority of German-speakers. Back then, it was accredited that the provisions enshrined in the Second Autonomy Statute (Second ASt) of 1972 were successfully implemented by the establishment of a detailed regime of territorial autonomy that recognizes and protects the rights of German-speakers within the Autonomous Province of Bolzano/Bozen (South Tyrol). For over 500 years, the predominantly German-speaking South Tyrol was part of the Habsburg Empire (Lantschner 2008, Steininger 2003).[1] In 1919, however, South Tyrol was annexed to the Kingdom of Italy as a result of the Peace Treaty of Saint Germain. Due to the advent of fascism the German- and Ladin[2]-speakers were not given any cultural and linguistic autonomy, even though this was proposed by different actors when the northward shift of the border to the Brenner Pass took place. From 1922 onwards, South Tyroleans suffered from assimilation policies (Italianization) and from a resettlement programme agreed upon by Hitler and Mussolini; the Option of 1939 aimed at integrating German-speaking South Tyroleans into the homeland of the Third Reich and at attracting Italian-speakers to South Tyrol (Steurer 1993). Due to the outbreak of the Second World War and the subsequent surrender of fascism in 1943, the resettlement programme never fully materialized. The Brenner Pass was, however, confirmed as the post-war border. Against the backdrop of the Cold War, Austria's claims for the reintegration of South Tyrol were nullified for broader geopolitical reasons (Pallaver 1993). Annex IV to the Paris Treaty of 1946, the Gruber-Degasperi Agreement between Italy and Austria, urged Italy to establish autonomy arrangements that "safeguard the ethnic character and the cultural and economic development of the German-speaking element". However, in the aftermath of the war, the interests of German-speakers were neglected. The First Autonomy Statute of 1948 foresaw the transfer of competences from the State to the Autonomous Region of Trentino-South Tyrol, a territory in which Italian-speakers were the majority. Only when both administrative and legislative competences were transferred from the regional to the provincial level (thus to the Autonomous Province of Trento and the Autonomous Province of Bolzano/Bozen), was South Tyrol able to properly address its own political and cultural affairs by establishing a power-sharing system between its major linguistic groups (German- and Italian-speakers), and a series of rules for South Tyrol's third language group, the Ladins (Alber & Zwilling 2014).

According to the Second ASt of 1972, the entire institutional design of the Autonomous Province of Bolzano/Bozen is based on the separation and forced cooperation of the two major language groups. Moreover, all provisions of South Tyrol's autonomy, and, most importantly, all stipulations on the use of language are enforced through strict legal remedies, available to individuals and groups as a means to strengthen mutual trust (Alber & Palermo 2012). The broad spectrum of complex regulations establishes a model of "regional consociationalism" (Wolff 2005) that is characterized by the cultural autonomy of the groups (Woelk 2008), a system of veto rights to defend each group's vital interests (Maines 2005),[3] language parity between the groups (Fraenkel-Haeberle 2008),[4] and ethnic proportionality (Lantschner & Poggeschi 2008)[5] ranging from the field of public employment to education and finances. The system of group rights is based on the declaration of belonging to or affiliation with one of South Tyrol's three language groups. According to the latest census, there are 69.41 per cent German-speakers, 26.06 per cent Italian-speakers and 4.53 per cent Ladin-speakers (ASTAT 2012).

The preconditions for the creation and successful implementation of South Tyrol's autonomy are reciprocal recognition and continuous dialogue. In this paper I map and examine the key dimensions of the rounds of negotiations that led to the creation, implementation and development of South Tyrol's autonomy. I do so by referring to special bodies and procedures, and, where applicable, by highlighting how they changed throughout the last seven decades. Part two focuses on the international dimension and, in particular, on the role the UN played. Parts three and four focus on different aspects of internal dimensions with part three scrutinizing the functioning of the Commission of 19 and part four the functioning of the Commission of Six; these special bodies were crucial in elaborating and implementing the content of the Second ASt. Part five refers to the most recent dimension of negotiated autonomy, the Autonomy Convention, a participatory process that invites all South Tyroleans to discuss the scope and development of South Tyrol's current autonomy arrangements. Part six offers concluding remarks and considers the future.

2. The International Dimension: The UN

On 30 January 1992, the Italian Prime Minister Giulio Andreotti declared in his resignation speech that the Package (Ger. *Paket*) has been implemented by having passed some of the most relevant but still pending enactment decrees to the Second ASt. From 1961 to 1964, a special commission appointed by the Italian Ministry of Domestic Affairs elaborated 137 legislative measures (the Package), which were to re-define South Tyrol's autonomy at the provincial level (see part 3). This necessity arose from the fact that the First Autonomy Statute of 1948 was not able to satisfactorily protect the interests of German-speakers

because the autonomy was granted at regional level, where Italian-speakers were the majority.[6] A second important aspect underlined by Andreotti in his speech was that future amendments to the Second ASt could only be undertaken with the consent of South Tyrol. Most importantly, a few months later, on 22 April 1992, the Italian Ministry of Foreign Affairs handed over a note to the Austrian Embassy in Rome (Gehler 2003, 93). In sum, the note acknowledged that the obligations stemming from the Gruber-Degasperi Agreement of 1946 had been adequately fulfilled by issuing the Second ASt and by implementing its provisions according to the Operational Calendar (Ger. *Operationskalender*), which, in 1969, was agreed upon alongside the Package (Triffterer 1992, 30).

The handover of the note initiated the process that led to the formal end of the conflict at the UN [the General Assembly urged Austria and Italy "to resume negotiations with a view to finding a solution for all differences relating to the implementation of the Paris agreement" (UN Resolution No. 1497 1960) and in 1961 it called "for further efforts by the two parties concerned" (UN Resolution No. 1661 1961). Most importantly, the note finally confirmed the international dimension of the South Tyrolean question. It contained an explicit reference to the link between territorial autonomy arrangements and minority protection; moreover, it defined the measures of the Package as acts implementing the international obligations stemming from the Gruber-Degasperi Agreement. Back in 1946, the Peace Treaty confirmed South Tyrol as part of Italy, but it provided for an international anchoring of minority rights, ensuring to the German-speaking population special provisions to guarantee complete equality of rights with the Italian-speaking inhabitants.[7] The international dimension of the Second ASt was thus recognized, and, even though the legal nature of the Package and its Operational Calendar was interpreted controversially (Triffterer 1992, 33, Zeller 1989), today it is generally asserted that they are to be viewed as international agreements and that they are thus binding. Moreover, in its Decision No. 242/1989 the Italian Constitutional Court puts forward a similar line of argument.

With the settlement of the South Tyrolean question at international level, South Tyrol's autonomy formally became a purely internal Italian matter, which, in practical terms, translated into bilateral political struggles for further enhancing South Tyrol's self-government arrangements with Austria as a kin-state. Thus, the formal settlement of the conflict in 1992 did represent everything else than the end to the development of South Tyrol's autonomy and its power-sharing mechanisms. From the 1990s onwards, the provincial government led by the Südtiroler Volkspartei (South Tyrolean Peoples' Party, SVP)[8], the dominant political party representing German- and Ladin speakers, continuously worked at extending the scope of autonomous powers in fields including education, transport, finances, environment, trade and cross-border cooperation (politically, the term dynamic autonomy was in use).

3. The Internal Dimension: The Commission of 19

Special *ad hoc* commissions played a key role in settling the conflict in South Tyrol. As anticipated, in 1961, a special body was established by the Italian Minister of the Interior Mario Scelba. The Commission of Nineteen was composed of 11 Italian-speakers (representing the national, regional, and provincial governments and parliaments), 7 German-speakers (appointed by the regional and provincial authorities), and 1 Ladin-speaker (appointed by the Autonomous Province of Bolzano/Bozen). This was a time in which two dimensions of negotiations characterized the South Tyrolean question: locally, the works of the Commission of 19 were overshadowed by a series of bomb attacks and internationally the South Tyrolean question was prominently present at UN level since in 1960 Austria's Minister of Foreign Affairs, Bruno Kreisky, brought the South Tyrolean question before the UN (Pfeifer & Steiner 2016). The appointment of the Commission of 19 was thus a necessary step, both with regard to dynamics within South Tyrol and with regard to the attention the South Tyrolean question received in international diplomacy. Notwithstanding the dominant position of Italian-speakers within the Commission of 19, an agreement was reached (Ritschel 1966, Marcantoni & Postal 2012). However, the negotiations over the Package were not formally concluded until 1969, and, most interestingly, the Package was never formally signed. The Italian government provided for an authorized Italian version of the Package which then resulted in several German translations. The parties involved in the negotiations ended up agreeing and voting on slightly different versions. Within the SVP, a slim majority of 52.8 per cent supported the 137 measures. The opponents of the Package rejected it because its approval in their opinion would have meant definitely renouncing their goal of reunifying South Tyrol with Austria. The supporters of the Package opted for internal self-determination as the only feasible way forward (Pallaver 2006).[9] It is important to note that, today, the SVP programme still refers to the right to self-determination as a legitimate last resort linked with the international anchorage of South Tyrol's autonomy, the Gruber-Degasperi Agreement of 1946 (SVP 2016).

The final acceptance of the Package was voted for only by the SVP delegates. Neither the regional nor the provincial parliament had a say. Moreover, there was no direct consultation via referendum. This was due to the fact that the negotiations that led to the Second ASt were elite-driven and the SVP was recognized as the legitimate representative of all German- and Ladin-speakers in South Tyrol. The main aim of the Package was to reform the First Autonomy Statute of 1948 by transferring the powers from the regional to the provincial level.[10] Thus, from 1972 onwards, with the adoption of the Second ASt under Constitutional Law No. 1 of 10 November 1971 and its entry into force on 20 January 1972, the Autonomous Region Trentino-South Tyrol retained an

insignificant number of competences which, over the years, have been largely devolved to the two autonomous provinces. It became a rather empty roof and its existence and functions are currently been debated in the bodies of the Autonomy Convention, a participatory process where citizens, politicians and stakeholders have the task of elaborating proposals as to a possible revision of the Second ASt (see part five).

4. The Internal Dimension: The Joint Commissions (the Commission of Six)

The Joint Commissions, special bodies tasked with the implementation of the Second ASt (the Commission of Twelve and the Commission of Six that is part of the Commission of Twelve), are the legal masterpiece of the Second ASt. They were created to enable the parties, the State and the two autonomous provinces, to jointly elaborate the contents of the enactment decrees. Theoretically, the Package provided for the creation of the Joint Commissions primarily for the implementation of the Second ASt (Palermo 2008, 146); in practical terms, the Commission of Six proved to be the most relevant platform for enhancing South Tyrol's autonomy also after the formal closure of the conflict in 1992 notwithstanding the fact that it, originally, was meant to be a temporary body.[11] Even though formally a consultative body, the decisions the Commission of Six takes with regard to the development of South Tyrol's autonomy are binding. Put differently, in South Tyrol, the Commission of Six evolved from an instrument for the implementation of the Second ASt into an ordinary instrument of government. Although Joint Commissions were foreseen in all five autonomous regions of Italy, only in Trentino-South Tyrol (and especially in South Tyrol) they have become pivotal for the entire autonomy regime.

According to the Second ASt, in the Autonomous Region of Trentino-South Tyrol

> the executive measures implementing the /…/ Statute shall be issued by legislative decrees, following consultation of a joint Commission of twelve members of which six shall represent the State, two the Regional Parliament, two the Provincial Parliament of Trento and two that of Bolzano/Bozen. Three of its members must belong to the German linguistic group (Art. 107 of the Second ASt).

Most importantly for the implementation of all provisions relevant only to South Tyrol, within the Commission of Twelve, a Commission of Six is to be appointed (Art. 107 Second ASt Para. 2), with three members representing the State (one has to belong to the German-speaking group) and three members representing the Autonomous Province of Bolzano/Bozen (one has to belong to the Italian-speaking group). Thus, Art. 107 of the Second ASt establishes

two commissions with the first, the Commission of Twelve dealing with issues regarding the entire Autonomous Region of Trentino-South Tyrol, and the second, the Commission of Six dealing with issues regarding the Autonomous Province of Bolzano/Bozen. Both Joint Commissions reflect the parity principle. However, whereas in the Commission of Twelve the State and the region have equal footing with six members each, the Commission of Six is characterised by "double parity" (Palermo 2008, 145), meaning that there is parity between territories (the State and South Tyrol) and parity between the main linguistic groups (three Italian-speaking members and three German-speaking members). An additional important feature for the success of the Commission of Six is linked to the rules of appointment. As has been said, one of the State representatives must be a German-speaker and one of South Tyrol's representatives must belong to the Italian-speaking group. The even number of representatives from the two major linguistic groups in South Tyrol makes it impossible to reach an agreement without the consent of both the parties (the State and the province) and the linguistic groups. It is worth noting that *de jure* no representative of the Ladin-speaking group is part of the commission. Initially, the main concern was to create a trust-building instrument between South Tyrol's major linguistic groups, thus ensuring a symmetrical balance between the State and the province, on the one hand, and between the German- and Italian-speaking groups on the other. Moreover, the SVP as an ethnic catch-all party declares itself to be the representative of both the German- and Ladin-speaking group (and has been recognized as such). More recently, options as to the *de jure* representation of Ladin-speakers in relevant bodies of South Tyrol's autonomy are being discussed.[12] However, for the time being, Ladin-speakers can only be part of the Commission of Six if the institutional parties decide to deliberatively assign one place to a Ladin-speaker instead of assigning it to a German- or Italian-speaker. In 2014, for the first time since the establishment of the Commission of Six, the State appointed a Ladin-speaker, meaning that currently the three members appointed by the State do belong to three different linguistic groups (as said, one has to be a German-speaker) while the three members appointed by the province are two German-speakers and one Italian-speaker.[13] Thus, the principle of double parity is currently watered-down as it has been interpreted in a broad manner with regard to the parity between Italian- and German-speakers. Moreover, it is worth noting that the members appointed by the State almost always are South Tyroleans and to a great majority they hold important political posts (which might be viewed critically, but, at the same time, it might be considered as the key to success of the Commission of Six).

Both the rules as to the appointment and the rules as to the composition of the Commission of Six force all parties to enter into dialogue when negotiating the wording and interpretative margin of each enactment decree until a majority of members agree, ideally all. The six members all have the same weight and the only way out of deadlocks is strenuous negotiations until a compromise is

found. This explains both the reason why the Commission of Six is regarded as a legal masterpiece and the fact that the implementation of the Second ASt took longer than initially foreseen. According to Art. 108 of the Second ASt all enactment decrees should have been adopted within two years; however, this was considered to be just an indicative time frame, including by the Constitutional Court (Decision No. 160/1985).

Once a draft text of the enactment decree is agreed upon in the Commission of Six and its content is thus backed by (all) its parties, it is submitted to the national government, which approves it in the form of a legislative decree.[14] The enactment decree is not debated in the national parliament, but by-passes the national legislative body and, most importantly, subsequent ordinary laws adopted by the Italian parliament cannot abolish, amend or overrule the enactment decree. Put differently, although formally of the same rank in the hierarchy of legal sources, the elaboration and approval of enactment decrees to the Second ASt is kept separately from the ordinary political decision-making process. Only a subsequent enactment decree adopted through the same procedure (i.e. with the consent of the different government levels and language groups) can amend or abolish an existing enactment decree.[15] Hence, the position of an enactment decree in the hierarchy of norms is below a constitutional law and above an ordinary law. This to uphold the principles of parity and bilateralism between South Tyrol and the State in terms of self-government and minority protection, also because the Autonomous Province of Bolzano/Bozen elects only a few deputies and senators in the national parliament that comprises almost 1000 members and as such cannot be an appropriate platform for negotiations regarding the scope of South Tyrol's autonomy.

A noteworthy and controversially discussed aspect with regard to the Commission of Six is the fact that negotiations within the Commission of Six are conducted behind closed doors and that they thus by-pass also the provincial parliament. Put differently, the principle of democratic legitimacy is limited by the principle of parity (Palermo 2008, 148), and the principle of transparency by the principle of efficiency. Until recently this was not criticized, as it was considered the key to success for the elaboration and subsequent approval of enactment decrees. Today, calls to make the work of the Commission of Six more transparent are increasingly brought forward. The main argument behind such calls is that over time the Commission of Six developed into the main decision-making body regarding the enhancement of South Tyrol's autonomy while, initially, it was only designed as a temporary body tasked with the implementation of the enactment decrees to the Second ASt. However, for the time being, no concrete steps are taken in order to reform the functioning of the Commission of Six, mainly because it has proved to be a successful governmental tool for mutual trust-building both within South Tyrol and between the Autonomous Province of Bolzano/Bozen and the State.

5. The Internal Dimension: The Autonomy Convention

In the 45 years of its history, the Second ASt has never been formally reformed, even though the autonomy has been considerably enhanced by other legal tools such as enactment decrees, constitutional reforms affecting the distribution of competences (Palermo et al. 2013, Palermo & Parolari 2016, Palermo & Wilson 2014),[16] the European jurisprudence (Toggenburg 2008) and the evolution of cross-border cooperation schemes (Engl & Zwilling 2013). Politically, in South Tyrol the formulas of provincial autonomy (until 1972), dynamic autonomy (especially from 1992 onwards) and, more recently, full autonomy and participatory autonomy were and are endorsed. Participatory autonomy especially refers to the Autonomy Convention, an 18 month-long project initiated by the South Tyrolean provincial parliament in January 2016. The Autonomy Convention[17] (i.e. its two bodies, the Forum of 100 and the Convention of 33) has the task of coming up with proposals as to the revision and institutional adaptation of the Second ASt, which are to be handed over to the South Tyrolean provincial parliament (who may take them into account but has no obligation to do so). For the first time in history, South Tyroleans have been invited to express their opinions both on the contents of the Second ASt and on how South Tyrol's future autonomy arrangements should look like in an institutionalized platform that consists of face-to-face as well as online encounters. Up to now, all processes linked with the creation, implementation and development of South Tyrol's autonomy were elite-driven, with the SVP as the chief negotiator.

In recent years, the political elites in South Tyrol (and even more those in Trentino)[18] increasingly started both communicating contents and reasons of the Second ASt, and debating the adaptation and revision of the Second ASt. The need to do so arises mainly for three reasons: firstly, there is no clarity regarding South Tyrol's substantial autonomy; secondly, the Constitutional Reform Bill of 2016 mandated for the revision of the statutes of the autonomous regions; and thirdly, the SVP increasingly engages into dialogues with the electorate with regard to decision-making processes after it lost its majority in 2013 (Scantamburlo & Pallaver 2014). As outlined at the beginning of this section, the Second ASt has changed in substance, even though it has never been changed formally; achieving clarity regarding the current competence catalogue and enshrining it legally in a revised Second ASt having constitutional rank would be an important step against both the uncertain Italian political landscape and leadership, and the centralist wind that is increasingly blowing; engaging in debates on the revision of the Second ASt has also become ever more pressing because the 2016 Constitutional Reform Bill mandated it. Autonomous regions were exempted from the reform's effects, meaning that they were asked to politically commit to re-negotiating their relationships by revising their statutes by means of bilateral negotiations

(Art. 39, Para. 13 of the Constitutional Reform Bill 2016). The two cornerstones of the Constitutional Reform Bill were abandoning perfect bicameralism and revising the distribution of the competences between the State and the regions, to the detriment of, especially, regions with an ordinary statute. The political will of the SVP and the Partito Democratico (Democratic Party, PD), its coalition partner, was to enshrine a procedural safe-guard clause into the revised statute (i.e. constitutionalizing the principle that no amendment to the statute can be made against the will of South Tyrol). This was the main reason why, unlike the vast majority of other regions, in South Tyrol, 63.7 per cent surprisingly voted in favour of the reform (Larin & Röggla 2016). Even though the result of the constitutional referendum in Italy (4 December 2016) slowed down the debate on the revision of the Second ASt, the work of the Autonomy Convention is still relevant. First of all because the idea of establishing an Autonomy Convention was already launched during the electoral campaign for the provincial elections in 2013, and because it is explicitly mentioned in the coalition program of the SVP and the PD (Coalition Program 2013, 31-34); thus, the Constitutional Reform Bill was a crucial motive, but not the only one. It is worth noting that the political support for the creation of the Autonomy Convention was contested: the ruling coalition was unable to convince either the Greens (who had an own draft law) or any of the other opposition parties to agree on their draft law; therefore, Provincial Law No. 3/2015 establishing the large-scaled consultative Autonomy Convention was passed solely with the votes of the ruling coalition. This congenital defect surely hampered the implementation of the Autonomy Convention.

Provincial Law No. 3/2015 mandates for the creation of two auxiliary bodies: the Convention of 33 and the Forum of 100. Both bodies are required to work according to the consensus principle and not according to the majority principle. If consensus cannot be reached with regard to a certain proposal, a minority report can be issued containing the diverging proposal for the revision of the Second ASt. The Convention of 33 is composed of four persons suggested by the Council of the municipalities, two persons suggested by trade associations, two persons suggested by trade unions, five legal experts nominated by the provincial parliament, twelve persons nominated by the provincial parliament representing both the political majority and minority, and eight persons elected by the Forum of 100 (Art. 2 of the Provincial Law No. 3/2015). The Forum of 100[19] is composed of ordinary citizens and has two functions: it is the linking body both to the interested citizenry not directly involved in activities and it will provide the Convention of 33 with further ideas (through the channel of the eight members of the Forum of 100 who are also members of the Convention of 33). The composition of both bodies shall respect the criteria of gender balance and proportional representation of South Tyrol's language groups. The members of the auxiliary bodies work on a voluntary basis without remuneration and

the secretariat of the provincial parliament supports their work, including by involving external expertise.[20] The duration of the work of the two bodies is one year with, on average, two work sessions of three hours each per month for the Convention of 33, and one full-time work session every two months for the Forum of 100. The Convention of 33 has taken advantage of the possibility of prolonging its work for another couple of months (until the end of June 2017). Each working session and all written contributions of the two bodies are publicly accessible; the Autonomy Convention project web site with interactive parts allows all interested persons to both assist the work sessions of the bodies by being in the respective meeting premises or by following the works via live-streaming (valid only for the Convention of 33), and to read the interim results as well as meeting protocols.

The results of the two bodies of the Autonomy Convention are handed over to the South Tyrolean provincial parliament, whose members can take them into account but are not obliged to do so. Once the content regarding the revision of the Second ASt is agreed upon and coordinated with that of the provincial parliament in Trentino, the regional parliament (being the expression of the two provincial parliaments) can initiate the amendment procedure to the Second ASt according to Art. 138 of the Italian Constitution.[21] Accordingly, laws amending the constitution and other constitutional laws (thus the Second ASt) shall be adopted by each chamber after two successive debates at intervals of not less than three months and they shall be approved by an absolute majority of the members of each chamber at the second vote. Most importantly, unlike other constitutional laws adopted in the national parliament, approved amendments to the Second ASt shall not be in any event subject to a national referendum. This is to circumvent the possibility that the whole institutional machinery of minority protection gets jeopardized by the result of a referendum held at national level.

6. Concluding Remarks and Outlook

The settlement of the South Tyrolean conflict was possible due to institutionalized negotiations at different levels of government. After the internationalized conflict de-escalation, special procedures for the implementation of the Second ASt were introduced. The Commission of Six established itself as a key body not only for the implementation of the Second ASt but also for widening the scope of South Tyrol's autonomy after the conflict was formally settled in 1992, when it was acknowledged that the provisions set forth in the Gruber-Degasperi Agreement were satisfactorily implemented. Legally speaking, the success of South Tyrol's negotiated autonomy primarily lies in the creation, composition and appointment procedures of the Commission of Six and, particularly, in its following underlying principles: parity among all actors involved and bilateralism between South Tyrol and the State. Politically speaking, the hegemony of the

SVP paved the way for the successful implementation of the Second ASt, which, today, consists in a complex power-sharing system between its major linguistic groups and ascribes South Tyrol a very broad legislative and administrative autonomy that includes nearly all competences except the army, the police and a few minor issues.

The 2013 provincial elections marked a turning point in South Tyrol's political landscape and reinforced the debate over the necessity to revise the Second ASt, also but not exclusively against the backdrop of the centralist wind blowing from Rome. Acknowledging that a pure elite-driven top-down process without the involvement of the citizenry would be controversial, the South Tyrolean provincial parliament established a consultative participatory process. The uniqueness of the Autonomy Convention lies, first of all, in its contextualisation in a minority area characterized by a power-sharing system. It is both in its scope (revision of the Second ASt) and method (inclusiveness in territorial, intergenerational and socio-linguistic terms) a *novum* for South Tyrol. The Autonomy Convention is the first-ever institutionalized platform where politicians, stakeholders and ordinary citizens are invited to enter into debates about South Tyrol's autonomy across both language groups and ethnically delimited political arenas. Regardless of whether or not the Autonomy Convention will fully succeed in its aim of elaborating concrete proposals for the revision of the Second ASt, it is undoubtedly the most recent and innovative example of how South Tyrol's autonomy is being negotiated. As such, it is definitely of historical importance. The institutionalization of the Autonomy Convention is proof of the fact that previous negotiations about South Tyrol's autonomy successfully transformed South Tyrol's numerical quantitative majority-minority relations into a qualitative and permanent "institutional equality" (Marko 1995, 172).[22] On the one hand, the Autonomy Convention as the first-ever institutionalized discussion platform allows for large-scaled debates across language groups and thus shows the potential for developing commonly shared visions for South Tyrol's future autonomy arrangements; on the other hand, it is an empirical test showing to what extent and over which topics South Tyroleans who either raised their voice in the face-to-face meetings or in the online platform still disagree, and thus to what extent the reconciliation process and the rapprochement of the different language groups is not yet concluded. Although a comprehensive analysis is not yet possible due to the ongoing work of the Convention of 33,[23] the following trends are emerging if one analyses the protocols of the meetings of the Convention of 33 and the results of the working groups within the Forum of 100:[24] the members of both bodies underline the importance of the international anchoring of South Tyrol's autonomy and the necessity to uphold the key instruments of minority protection; however, opinions differ with regard to if and how the details of key instruments of minority protection could be regulated differently. For example: (a) the possi-

bility of temporarily suspending the ethnic quota system or applying it in an ever more flexible way; (b) the introduction of a multilingual school model alongside the German and Italian school systems that are based on the principle of mother tongue education; (c) the option of completely abolishing the region *vs.* a newly conceived region as a coordinating body. Moreover, there are very different views with regard to whether and how one should engage in debates that envisage a complete overhaul of South Tyrol's *status quo* within Europe.[25]

Even though if viewed from the future the Autonomy Convention might represent only a drop in the ocean when it comes to the question on how South Tyrol's autonomy is negotiated, it is undoubtedly true that the Autonomy Convention will enter history because it is the first-ever large-scaled consultative process in South Tyrol. The opinions, visions and proposals of all those who decided to raise their voice between January 2016 and June 2017 are being documented and can be consulted even after the formal closure of the Autonomy Convention in September 2017 when the results of both bodies, the Convention of 33 and the Forum of 100, are officially handed over to the South Tyrolean parliament. Future will show if and to what extent they will be taken into account in upcoming rounds of negotiating South Tyrol's autonomy.

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Notes

[1] With one exception from 1805–1813 when Tyrol was incorporated into Bavaria, an ally of Napoleon.

[2] Ladin is a Rhaeto-Romance language spoken in the Central and Eastern Alpine region. In Italy, it is spoken in the valleys of the Dolomite mountains situated in the provinces of South Tyrol, Trento and Belluno.

[3] Art. 56 of the Second ASt reads as follows: "(1) If a bill is considered prejudicial to the equality of rights between citizens of the different linguistic groups or to the ethnic and cultural characteristics of the groups themselves, the majority of the members of a linguistic group in the regional parliament or provincial parliament of Bolzano/Bozen may request a vote by linguistic groups. (2) If the request for separate voting is not accepted, or if the bill is approved notwithstanding the contrary vote of two-thirds of the members of the linguistic group which had put forward the request, the majority of that group may contest the law before the Constitutional Court within thirty days of its publication, for the reasons set out in the preceding paragraph. (3) The appeal shall not have effect of suspending the law."

[4] Art. 99 of the Second ASt. On the use of the German and Ladin language in the Autonomous Province of Bolzano/Bozen see also Art. 100 and Art. 101 of the Second ASt.

[5] Art. 89 of the Second ASt.

[6] It is important to recall that the Autonomous Region of Trentino-South Tyrol consists of the trilingual Autonomous Province of Bolzano/Bozen and the almost 100 per cent Italian-speaking Autonomous Province of Trento.

[7] The smallest (and oldest) linguistic group, the Ladins, are technically not covered by the Gruber-Degasperi Agreement. The claims of the Ladin minority group have been traditionally put forward by the German-speakers and by its most representative party, the Südtiroler Volkspartei (South Tyrolean Peoples' Party, SVP).

[8] Established in 1945, the SVP as an ethnic catch-all provincial party based on Catholic social principles has dominated the political life of the province since 1945. Until 2008, the SVP always gained the absolute majority of votes and seats in the provincial parliament; in 2008, for the first time the SVP received less than 50 per cent of the votes, but managed to obtain 18 seats out of 35 in the provincial parliament. At the provincial elections in 2013, the SVP again won the elections, but it managed to obtain only 17 seats out of 35 meaning that it needed to enter a coalition with an Italian-speaking party not only because that is one of the specific requirements laid out in the Second ASt, but for the necessity to form a government. Please note that according to Art. 50 of the Second ASt the composition of South Tyrol's government must reflect the numerical strength of the linguistic groups as represented in the provincial parliament.

[9] The diverging opinions on the fate of South Tyrol induced some South Tyroleans to organize themselves into liberal-patriotic alliances claiming the right of reunification with Northern and Eastern Tyrol in Austria.

[10] This is an exception when it comes to Italy's asymmetric regional State structure. According to Art. 116 of the Italian Constitution, Friuli-Venezia Giulia, Sardinia, Sicily, Trentino-South Tyrol and Aosta Valley have special forms and conditions of autonomy pursuant to the special statutes adopted by constitutional law. Unlike in the other autonomous regions, in the Autonomous Region Trentino-South Tyrol most competences are vested within the provincial and not within the regional level.

[11] In fact, after the full implementation of the Second ASt, a so-called Commission of 137 should have replaced the Joint Commissions. This body would have had a purely advisory role and would therefore not have respected the principle of parity between territories and linguistic groups. Because of both its mandate and its composition, this body would not have been able to guarantee the development of autonomy. Today, the Commission of Six is part of the Commission of Twelve that deals with the implementation of the Second ASt at the level of the entire region of Trentino–South Tyrol. In reality, the Commission of Twelve plays a limited role because most competences, unlike in the other autonomous regions in Italy, belong to the two autonomous provinces and not to the autonomous region.

[12] For example, in the Autonomy Convention (see part 6).

[13] The current members of the Commission of Six are: Francesco Palermo (president), appointed by the State as Italian-speaker; Brunhilde Platzer appointed by the State as German-speaker; Daniel Alfreider appointed by the State in the quota reserved to an Italian-speaker (Alfreider is Ladin-speaker), Dieter Steger appointed by the region as German-speaker, Roberto Bizzo appointed by the province as Italian-speaker, Karl Zeller appointed by the province as German-speaker.

[14] According to Art. 76 of the Italian Constitution these are legislative acts adopted by the government through delegation by the parliament.

[15] The abolition of the joint commissions would have frozen all enactment decrees, since they can be modified only by the same legal source (see Decision No. 160 of 1985 and No. 37 of 1989 of the Constitutional Court and Opinion No. 3302 of 1995 of the Council of State, First Chamber).

[16] Constitutional Reform No. 2/2001 as well as significant changes in the financial relations.

[17] The full name of the process, as stated in the Provincial Law No. 3/2015, is Convention for the revision of the Autonomy Statute of Trentino-Südtirol or South Tyrol Convention. The name Autonomy Convention is the term used by the public, politicians and media. The name refers to two auxiliary bodies, the Convention of 33 and the Forum of 100.

[18] In Trentino, the Provincial Law No. 1/2016 mandates for the creation of a participatory process according to a 4-6-2- model. This means that within four months the Consulta (a body of 25 members comprising legal experts, politicians and representatives of the organized civil society) had to elaborate a preliminary document, which from March 2017 onwards is to be presented to the public and to various stakeholders over a six-month time period. Afterwards, in autumn 2017, the Consulta shall take two months to revise its preliminary document against the comments received both in the face-to-face events throughout the whole Trentino territory and on the online-platform, see Autonomia – Riforma dello Statuto.

[19] Art. 5, Para. 2 of the Provincial Law No. 3/2015 of the Autonomous Province of Bolzano/Bozen. The members of the Forum of 100 were selected (stratified random sampling that took into account gender, age and linguistic affiliation) among all persons resident in South Tyrol who sent their application in the period between the official opening of the Autonomy Convention and the end of its very first phase, a series of Open Space events for the general public (16 January 2016 – 05 March 2016). Registration was open to all persons at least 16 years old (1,829 people registered). It is worth noting that as well as eight Open Space events and a Future Lab, four hematic Workshops for Associations took place from 3-6 May 2016, with the aim of collecting ideas and proposals from South Tyrol's organized civil society. Data as to who participated in the public events and how, as well as the results of the altogether 273 discussion rounds that preceded the works of the two bodies of the Autonomy Convention, are available at Autonomy Convention project web site.

[20] Eurac Research offers expert support to the Forum of 100 and the Convention of 33.

[21] Art. 103 of the Second ASt vests the right to initiate amendment procedures within the regional parliament (according to the proposals of the two provincial parliaments).

[22] Joseph Marko (1995, 172) defines "institutional equality", a climate of tolerance and dialogue, as a precondition for the functioning of consociational democracy within ethnically fragmentized societies.

[23] The Convention of 33 first met on 30 April 2016 and finalizes its works by the end of June 2017. It decided to organize its work within the following macro-topics: (1) the role and future of the region; (2) minority protection; (3) the province's legislative powers; (4) self-determination; (5) the relationship between South Tyrol, the EGTC European Region Tyrol-South Tyrol-Trentino, the European Union and Europe. See Autonomy Convention project web site.

[24] The members of the Forum of 100 organized themselves in 8 thematic working groups: (1) the development of autonomy, the role and future of the region, the institutional relationships with Rome and Vienna, dual citizenship; (2) self-determination, the European region, institutional relationships with Austria and Italy, South Tyrol activists; (3) culture, education and toponomy; (4) declaration of linguistic affiliation, multilingualism, the ethnic quota system, the Ladins, bi- and trilingualism in public administration; (5) sustainability, the economy, research, labour; (6) social affairs, healthcare, sport; (7) people with a migration background and cohabitation, multilingualism; (8) forms of participation (representative and direct democracy). Altogether, they met 6 times for work sessions that lasted the whole day (some working groups organized additional meetings). The Forum of 100 first met on 02 April 2016 and its last meeting was on 29 April 2017. On 12 May 2017, the Forum of 100 delivered its results to the Convention of 33 in order to allow its members to take them into consideration while working on their final document. See Autonomy Convention project web site.

[25] See Autonomy Convention project web site. For an analysis of secessionist discourses in South Tyrol see Alber 2015.

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Daniel Wutti

Between Self-Governance and Political Participation: The Slovene Minority in Carinthia, Austria

The article presents the political participation of the Slovene minority in Carinthia from the plebiscite of 1920 until the present. The changed electoral franchise agreed by the ruling parties in Carinthia in the 1970s blocked attempts of the minority to be incorporated adequately in a broader political sphere. The political actors of the minority followed two strategies: one of building up their own political structures in local parties and one of joining Austrian and Carinthian mainstream parties. This paper gives a brief overview of the minority's struggle for self-governance and political participation. It introduces the organisational structure of the minority and its opportunities for political participation. Its aim is to deal with the question of which factors led to political differentiation and how to assess this.

Keywords: Carinthian Slovenes, political participation, minority representation, differentiation, organisational structure.

Koroški Slovenci med samoupravo in politično participacijo

Članek predstavlja politično participacijo slovenske manjšine na avstrijskem Koroškem od plebiscita leta 1920 do danes. Sprememba koroškega volilnega reda v 70ih letih prejšnjega stoletja je preprečila zadnja prizadevanja za participacijo manjšine na širši politični ravni. Politični akterji manjšine so sledili dvema strategijama: ustanavljali so lastne politične strukture na lokalni ravni ali se vključevali v avstrijske in koroške večinske stranke. V članku avtor oriše prizadevanja manjšine za samoupravo in politično participacijo. Nato predstavi organizacijsko strukturo manjšine ter njene možnosti za politično participacijo. Ob tem obravnava vprašanji, kateri dejavniki so vplivali na politično diferenciacijo znotraj manjšine in kako gre le-to oceniti v smislu politične participacije.

Ključne besede: *koroški Slovenci, politična participacija, zastopstvo manjšine, diferenciacija, organizacijska struktura.*

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1. Introduction. A Brief Historical Overview Since the Plebiscite of 1920

In the Austro-Hungarian Empire, Slovenes were separated by the monarchy's frontiers. During the last decade before the First World War in particular, Carinthian Slovene political and economical organisations were increasingly oriented towards Ljubljana. As a result of the 1920 plebiscite, in which Carinthia was defined by today's borders, the newly created national minority had to rebuild its cultural, economical and political organisations. The first attempt was the founding of the newspaper *Glas pravice*, which was printed from January to July 1921. Due to Carinthian Landtag and local council elections in April 1921, the Political and Economic Association of Slovenes in Carinthia (Politično in gospodarsko društvo za Slovence na Koroškem) was founded. The organisation brought out a weekly newspaper *Koroški Slovenec*, which was published from 1921 to 1941 (Inzko 1988, 82). The organisation's political party Carinthian Slovene Party (Koroška slovenska stranka), succeeded in achieving two mandates in the first Landtag elections in 1920 (Jesih 2007, 25). Carinthian Slovenes also participated in larger German-speaking parties during the first Austrian republic, such as the Christian Social Party, the Socialist Party and the Communist Party. The Slovene socialist Anton Falle was even elected in the Austrian parliament from 1921 to 1934 (Jesih 2007, 27). Carinthian Slovene political movements never again achieved the same success as they did in Austria's first republic from 1920 to 1934 (Jesih 2007, 27). From 1926 to 1930, they took part in negotiations on their cultural autonomy in Carinthia, despite the unpromising initial situation influenced by anti-Slovene agitation, poor economic conditions and the forced emigration of the Slovene intelligentsia after the 1920 plebiscite. During the negotiations, questions of whether or not Carinthian Slovenes should be registered in national cadastres were raised. Thus German nationalists aimed to decrease the number of Slovenes (Moritsch 2000, 20) and they mobilised against cultural autonomy. Finally, the negotiations were aborted by German political parties (Sturm-Schnabl & Schnabl 2016, 725).

During the National Socialist period, Slovene activities and language were forbidden. 927 men and women from bilingual Carinthia – mostly, but not solely Carinthian Slovenes – chose to participate in the resistance movement and joined Partisan forces (Linasi 2010, 678). Several Carinthian Slovenes supported them from home. Linasi estimates a total of 3000 Partisans who fought in Carinthia in this period, around 600 of whom died (Linasi 2010, 679). Other Carinthian Slovenes deserted from the German Wehrmacht and hid in Carinthian forests. 917 Carinthian Slovenes, children as well as old people, were deported to labour or concentration camps (Entner 2014, 104). More then 500 Carinthian Slovenes lost their lives during the National Socialist period (Entner

2014, 11). The traumatic events of this period continue to shape the political and cultural activities of the minority to this day (Wutti 2016, 299).

From the beginning, Carinthian Slovenes were ideologically separated into a bigger, conservative Catholic movement (from 1890 onwards) and a liberal one (Malle 2009, 109, 115), which was later predominantly social democratic. From 1945 to 1955, Austria was administered by the Allied forces. In 1945, the Liberation Front for Slovenian Carinthia (Osvobodilna fronta za Slovensko Koroško) was founded as the sole representative organisation for Carinthian Slovenes (Inzko 1988, 162). The Liberation Front (Osvobodilna Fronta – OF) was first established in 1941 as an anti-imperialistic front (Malle & Entner 1999, 11), with the aim of resisting National Socialism and uniting all Slovenes in one state (Malle & Entner 1999, 104). As late as 1949, representatives of the Liberation Front were still following this vision, which was not shared by conservative Carinthian Slovenes, who condemned communism (Nečak 1985, 78) and favoured unchanged Austrian-Yugoslavian borders. They meanwhile prepared to install their own organisation, the National Council of Carinthian Slovenes (Narodni svet koroških Slovencev – NSKS), which was founded in June 1949 as a Catholic alternative to the Liberation Front (Ogris 2010, 61, Nečak 1985, 91). In the same year, the Front ran as the Democratic Front of the Working People (Demokratična fronta delovnega ljudstva) and the NSKS as the Slovene Christian People's Party (Krščanska ljudska stranka) as Slovene representative organisations in elections for the provisional Carinthian government. Neither of the two Slovene parties gathered enough votes, although the NSKS achieved almost double the support of the Democratic Front (Nečak 1985, 92). If the Slovene lists had run together, they would most likely have been able to join the government (Nečak 1985, 92). After this failure, the political separation of Carinthian Slovenes was absolute (Nečak 1985, 92, Malle 2009, 120).

In the following years, the Democratic Front attempted to "reunify" Carinthian Slovenes (Nečak 1985, 93). Despite this, the NSKS rather established itself as an anti-communist platform and refuge for Yugoslavian political emigrants, under the slogan "loyal to religion – loyal to the nation" (Nečak 1985, 96). Connections between the Yugoslav Communist Party and the Carinthian Democratic Front were apparent (Inzko 1989, 40). Nečak observes that in this period the NSKS rejected every attempt by the Democratic Front to forge links (Nečak 1985, 96). Inzko criticises the Liberation Front's attempts to unify Slovenes in a Communist single-party system and claims that the Front was accountable for the political and ideological split between Carinthian Slovenes (Inzko 1989, 42). In his viewpoint, the Front blocked the independent candidature of Carinthian Slovenes for the Carinthian government in 1945, which led one third of Carinthian Slovenes voting for the Austrian People's Party (ÖVP) or Socialist Party (SPÖ), where they remained as party members (Inzko 1989, 41).

In 1955, Austria gained a new state treaty and independence. Jesih (2007, 66) names six political milestones of the Carinthian Slovene minority after World War II:

- installation of a mandatory bilingual school system in South Carinthia in 1945;
- foundation of the Slovene High School in Klagenfurt/Celovec in 1957;
- abolition of the mandatory bilingual school system; installation of bilingual topographical signs, with the escalation of the so-called Ortstafelsturm in 1972, in which all bilingual topographical signs were removed in aggressive acts by German nationalist groups;
- agreement of all three big Carinthian parties to deal with the minority issue only in those cases where all three could agree and the exceptional census in 1976, as well as the agreement on a new ethnic communities law in 1976/77;
- reform of the bilingual school system in its segregational form in 1988.

We could also mention here the change of the Carinthian electoral law in 1979, together with the merging of bilingual with monolingual electoral districts. These changes made it *de facto* impossible for an independent Slovene party to get elected at the Carinthian level: since then, political parties have to cross a threshold of around 10 per cent in one of four Carinthian electoral districts (one mandate) to participate in elections to the Landtag. A recent milestone was the Carinthian memorandum focussing on the question of bilingual topographical signs and Slovene as an official language. Slovene representative organisations, the Carinthian government and the Austrian federal government agreed on a solution, although there was criticism from the very beginning.[1] The memorandum was implemented in a new ethnic communities law with constitutional status in 2011.

Carinthian Slovenes actively participated in almost all Austrian democratic elections with some exceptions in the presidential elections and those for the main farming and forestry organisation. Municipal elections and farmers' organisation elections promised good election results for Slovene parties. However, Slovenes also participated actively in the major Austrian parties in these elections (Malle 1997, 45). Milestones at the international level in recent decades were the declaration of the independence of Slovenia in 1991 and its accession to the EU in 2004. In the Austrian context, both events contributed to the perception of Slovene not just as a minority language, but an international official language.[2]

The aforementioned ideological split between Carinthian Slovenes, in terms of the division into conservative and liberal representative organisations, is still present in Carinthian Slovene politics. In the Carinthian Slovene community, the question of whether members of the minority should participate in Slovene ethnic parties or in bigger German-speaking parties in Austria, is

a current topic of discussion. However, the minority's political landscape is strongly shaped by two traditional organisations.

2. Organisational Structure of the Minority

2.1 National Council of Carinthian Slovenes (Narodni svet koroških Slovencev)

The National Council of Carinthian Slovenes (Narodni svet koroških Slovencev – NSKS) was founded in June 1949 as a platform for the the Catholics in the minority population (Ogris 2010, 62). While until the 1960s Yugoslavia officially labelled the NSKS as traitors and responsible for the disintegration of Carinthian Slovene unity, newer evidence has shown that there was unofficial contact and support from the beginning (Jesih 2007, 81). In the struggle to democratise the representative structures of the minority, the NSKS strives to hold direct elections of board members and chairs every four years (Ogris 2010, 62). For the same reason, the NSKS is connected with up to 48 directly elected parliament members – the Assembly of National Representatives (Zbor narodnih predstavnikov). The NSKS is traditionally close to the Austrian People's Party, but its representatives have been and are active in other Austrian parties (Jesih 2007, 82). The following Carinthian Slovene organisations can be considered as situated in the circle of influence of the NSKS (Jesih 2007, 82):

- Christian Cultural Union (Krščanska kulturna zveza), one of two cultural umbrella organisations of the minority;
- Carinthian Youth Association (Koroška dijaška zveza), a youth organisation focused on the Slovene Gymnasium in Klagenfurt/Celovec;
- Hermagoras/Mohorjeva Society (Mohorjeva družba), with an important publishing house and a press office;
- Slovene Athletic Club (Slovenski atletski klub);
- Catholic Youth Organisation (Katoliška mladina);
- Unity List (Enotna lista – EL), a Slovene political party at local level.

The NSKS supports independent ethnic political participation and Carinthian Slovene movements, such the Unity List. Nevertheless, the NSKS has also built strategic alliances with other parties – for example, the Green Party or the Liberal Forum (now Neos); it also supports the Community of South Carinthian Farmers (Skupnost južnokoroških kmetov) (Ogris 2010, 62). Notwithstanding, it is politically lobbying for a permanent ethnic representative in the Carinthian Landtag (Jesih 2007, 82), a minority representative system regulated by public law (the so-called Pernthaler model) and the unification of Carinthian Slovene representative structures (Jesih 2007, 85).

2.2 Association of Slovene Organisations in Carinthia (Zveza slovenskih organizacij)

The Association of Slovene Organisations (Zveza slovenskih organizacij – ZSO) was founded in 1955 as the successor organisation of the Democratic Front (Ogris 2010, 61). It is liberally oriented, and members are both organisations and individuals. There have been three chairmen so far: Franci Zwitter (1955-1982), Feliks Wieser (1982-1992) and Marjan Šturm (1992-date). Important member organisations are:

- Slovene School Association (Slovensko šolsko društvo);
- The Slovenian Exiles' Association (Zveza slovenskih pregnancev), under National Socialism;
- Association of Carinthian Partisans (Zveza koroških partizanov);
- Assiciation of Slovenian Women (Zveza slovenskih žena);
- Slovenian Alpine Association in Carinthia (Slovensko planinsko društvo);
- Slovene Cultural Union (Slovenska prosvetna zveza) has an extraordinary position in the organisation. Together with its Christian counterpart, the Christian Culture Association (Krščanska kulturna zveza), it is one of two cultural umbrella organisations of the Carinthian Slovenes.

In contrast to the NSKS, the ZSO urged the political integration of Carinthian Slovenes in Austria's major parties, with a focus on the SPÖ (Socialist Party), but also in the Green Party, the Communist Party and Liberal Party (ZSO 1998, 25). It rejects the idea of independent political minority parties (Jesih 2007, 95). However, it leaves an open option for its members to integrate into independent Slovene parties at a local level (Jesih 2007, 96).

Following Ogris, ZSO can be seen as the representative organisation for politically left to centre-right oriented Carinthian Slovenes (Ogris 2010, 62). It propagates the ideas of multiculturalism and interculturalism (Jesih 2007, 96) as well as pluralism and the multi-faceted interests of members of the minority (Jesih 2007, 99). It encourages the preservation of language and cultural values, and rejects the politicising of ethnicity (ZSO 1998, 26). Since the 1990s, the organisation has fostered integration with German-speaking majorities (Brezigar 1996, 30). Its chairpersons and board members are elected at a general assembly by secret ballot.

2.3 Association of Carinthian Slovenes (Skupnost koroških Slovenk in Slovencev)

The Community of Carinthian Slovenes (Skupnost koroških Slovenk in Slovencev – SKS) was founded in 2003 by former members of the NSKS. The differences which led to the split and the founding of the third representative

organisation of the minority, appeared after conciliatory tendencies towards the Carinthian government (Ogris 2010, 63). According to its publications, the organisation currently has more than 1300 members. One of their main focuses is on economic growth of the bilingual region. The SKS fosters the Slovene language and dialogue between Slovene and German speaking Carinthians. Economic and social stability – mostly in rural Southern Carinthia – should lead to the stabilising of the Slovene language as a language of communication in families and villages (Ogris 2010, 64). In this sense, they follow an integrated model, rather than the ideological separation of Slovenes and Germans in Carinthia. The organisation's target group are also those who would like to re-activate Slovene roots or learn the Slovene language for different reasons (Pirker 2017, 125). The organisation has 15 board members and elects them at a general assembly (SKS 2005, 2). They are politically liberal.

2.4 Unity List (Enotna Lista)

The Unity List (Enotna lista – EL) is an independent regional party, which is popular not just with ethnic Slovenes, but presents itself as an integrational open bilingual party with a local focus (Pirker 2017, 125). Under the name Volilna skupnost it is present also in other bilingual areas in Carinthia, to attract Carinthian Slovenes with different ideological views. Although the party is ideologically close to the NSKS, it is an independent party of the minority (Jesih 2007, 75).

In 1973, the Club of Slovene Local Councils (Klub slovenskih občinskih odbornikov) was founded. In 1975, it was renamed the Carinthian Unity List (Koroška Enotna lista).[3] In addition to ethnic and national questions, its programme also addresses economic and social topics (Inzko 1988, 203). Since 1991, the name of the party is Enotna Lista. In the last decades the Unity List has had various strategic coalitions with majority-population parties and movements (Demokratie 99, Alternative Liste Kärnten, Grüne Alternative Kärnten, …). In the 2015 elections, the party gained two mayors in Southern Carinthia: one in Globasnitz/Globasnica and one in Bad Eisenkappel/Železna kapla. Deputy mayors from the Unity List party are present in Bad Eisenkappel-Vellach/Železna Kapla-Bela, Zell/Sele and Feistritz ob Bleiburg/Bistrici pri Pliberku. The party controls town councils in Bleiburg/Pliberk and Ferlach/Borovlje. In the 2015 elections, 58 Carinthian local councillors were elected in Slovene and bilingual parties coordinated by the Unity List (Gemeinderatswahlen EL, 2015).

3. Forms and Opportunities for Political Participation

According to Toggenburg and Rautz (2010), the aim of participation of minority members is their integration in the political, cultural, social and economical

life in minority matters, but also public life in general. Such participation is a precondition for a minority to feel loyalty and a sense of belonging to a nation state. It is also important to note that participation by individuals is not sufficient. Opportunities to form groups to represent the political and economic interests of a minority and participate in decision-making processes are necessary (Toggenburg & Rautz 2010, 204). To ensure political participation of minorities, instruments of facilitation such as the exemption from percentage thresholds (Toggenburg & Rautz 2010, 205) and reserved seats in political decision-making bodies (e.g. parliament and the Carinthian Landtag) are necessary (Toggenburg & Rautz 2010, 208). A third instrument to facilitate participation is the minority-friendly arrangement of electoral districts (Toggenburg & Rautz 2010, 207). However, not a single of these three mentioned points is valid for the Carinthian Slovene minority. In Austria, recognised minorities have no chance of directly participating in legislation concerning minorities (Pirker 2017, 88). The Austrian legal system does not foresee any special right of persons belonging to national minorities to be represented in elected bodies. Legal experts conclude that the only mechanism that allows for minority political participation in the decision-making process is the Advisory Council (Lantschner 2010, 30). However, this is highly limited.

3.1 Advisory Council

The Advisory Council (Volksgruppenbeirat) was established by the new ethnic communities law of 1977. It is organised within the Austrian Federal Chancellery. The Carinthian Slovenes and their organisations first rejected the Advisory Council as well as the ethnic communities law (Jesih 2007, 106). At first, both traditional representative organisations of the minority – the ZSO and the NSKS – rejected participation in the Advisory Council. They were afraid that their participation might weaken chartered minority rights in the Austrian State Treaty from 1955 (Baumgartner & Perchinig 1995). The NSKS first entered in 1988 and sent its nominee; the ZSO followed this example one year later (Jesih 2007, 83).

The Advisory Council acts as a council for the Federal Government and the Carinthian Government. There are Advisory Councils for the Slovene minority, as well as for the Croatian, Hungarian, Czech, Slovak and Roma minorities. The Advisory Council consists of 16 members: 8 are named by Slovene representative organisations, 8 by the political parties and the Catholic Church. All members have to be considered as Carinthian Slovenes. One important task of the Advisory Councils is to advise the government each year as to financial support for the minorities. The criticism has been voiced that the role of the Advisory Council is limited to advice and hearings (Pirker 2017, 267). It has further been commented that the Advisory Councils fall short of even the minimum of democratic representation and efficiency (Marko 2010, cited in

Lantschner 2010, 34) and that they are too much under the influence of the Federal Government. For example, the Austrian government decides about the number of their members and about which minority organisations are invited to submit proposals (Lantschner 2010, 34). Criticism about the mandate as well as the membership has even been expressed by the Advisory committee of the Framework Convention for the Protection of National Minorities, but nothing has changed (Lantschner 2010, 32). Marjan Sturm, chairman of the ZSO, acted as chairman of the council for 23 years. In November 2015, he was replaced by the NSKS's Nanti Olip.

3.2 Slovenes in Major Parties

Aside from the above-problematised political participation through the Advisory Council and inclusion in ethnic Slovene parties such as the Unity List, the Carinthian Slovene minority can politically participate in major parties. This path was followed especially by the representative organisation Association of Slovene Organisations (ZSO), which in its early years fostered the integration of Carinthian Slovenes, especially in the Austrian Socialist Party (SPÖ). In the early 1970s, the greatest success of this effort was the election of the vice chairman of ZSO, Hanzi Ogris, to the Carinthan Landtag for the SPÖ (Jesih 2007, 93). However, because of anti-Slovene reactions in major parties on the installation of bilingual topographical signs in 1972, ZSO ended its engagement in integrating into political parties until the 1990s, when domestic and foreign policy again changed (Jesih 2007, 95). Anti-Slovene pressure in major parties in the 1970s, as well as a crisis with its traditional political partner, the Austrian People's Party (ÖVP) because of the first efforts to establish ethnic Slovene parties in the 1960s, also led the NSKS to decrease its engagement in major parties. The NSKS has not changed its position until today. However, beside its well-recognised preference for ethnic Slovene political representation, it has supported connections to the Austrian Green Party or the Liberal Forum (Jesih 2007, 82). As a result of this effort, Karel Smolle was elected to the Austrian parliament for the Green Party as the first Carinthian Slovene in this position. He held it from 1986-1990, with the change to the Liberal Forum.

Today, Carinthian Slovenes from all three representative organisations hold visible positions in major parties: Ana Blatnik has been a member of the ZSO and of the Austrian Federal Council since 2004. In 2014, she was also its chairperson. Zalka Kuchling, who is a member of the board of the SKS as well as the Green Party, has been a delegate to the Carinthian Landtag since 2013. Angelika Mlinar, a member of NSKS, has been a member of the European Parliament for the Austrian party Neos (a successor of the Liberal Forum) since 2014. There are Carinthian Slovene SPÖ mayors in Neuhaus/Suha, Bleiburg/Pliberk and Zell/Sele. Several ÖVP candidates have been Carinthian Slovenes, such as Raimund Grilc, who was a delegate to the Landtag from 1994 to 2009.

Mirko Messner, a member of the ZSO, has been the national spokesperson of the Austrian Communist Party since 2006.

3.3 Youth Participation

Carinthian Slovene youth is present in all minority political organisations. However, they do not fill important positions. The most active members present in youth organisations with independent statutes:

- Young Unity List (Mlada Enotna Lista) is the youth organisation of the Slovene political party the Unity List. It is active at the local level in some South Carinthian regions.
- Catholic Youth Organisation (Katoliška Mladina), a Slovene counterpart of German-speaking Catholic youth initiatives.
- Carinthian Youth Association (Koroška dijaška zveza - KDZ), a youth organisation focused on the Slovene Gymnasium in Klagenfurt/Celovec.
- Club of Slovene Students in Vienna (Klub slovenskih študentk in študentov na Dunaju – KSŠŠD), the oldest youth organisation, founded in 1923. It has more then 600 members (KSŠŠD 2013, 5) and is a most important Slovene organisation in Vienna. Its library, which is organised by the students, contains the most Slovene books anywhere in Austria's capital.
- Club of Slovene Students in Graz (Klub slovenskih študentk in študentov Gradec). It was founded in 1974 to bring together Slovene students in Graz. Due to its geographical proximity to Maribor, it is the youth organisation with most active members from Slovenia.
- Club of Slovene Students in Carinthia (Klub slovenskih študentk in študentov na Koroškem) is the active since the 1990s and the youngest student organisation of the minority.
- Slovene Youth Organisations (Slovenske Mladinske Organizacije) as a platform and umbrella organisation in Carinthia.

The Club of Slovene Students in Vienna, the Young Unity List and the Carinthian Youth Association are member organisations of the Youth of European Nationalities (YEN), which acts as an umbrella organisation for youth minority organisations in Europe. Its main goal is to work for the preservation and development of the rights of the minorities and ethnic groups.[4] These Carinthian Slovene Youth Organisations are three of 39 member organisations of the YEN. They take part in annual international seminars and workgroups. The Club of Slovene Students in Carinthia, the Carinthian Youth Association, the Young Unity List and the Catholic Youth Organisation formed the umbrella organisation Slovene Youth Organisation (Slovenske Mladinske Organizacije) to establish and organise a youth club in the centre of Klagenfurt/Celovec. It is used for cultural, political and societal events especially by students and pupils.

4. Conclusion

The Carinthian Slovene minority has reached a high level of organisational structure (Jesih 2007, 221), although the conditions for political participation are still far from satisfactory. This is noted by the minority itself, as well as by international observers such as the Framework Convention for the Protection of National Minorities. According to Boris Jesih (2007, 219) at all levels of political participation, Carinthian Slovenes have to decide between the (ethnic) minority option or the ideological-state option. He maintains that this is a very certain form of assimilation. Viewpoints on ideal political representation as well as strategies differ among Carinthian Slovene representative organisations. However, the brief historical overview in this article shows that the question of unifying Carinthian Slovene representative structures emerged already in the late 1940s when a Catholic representative organisation appeared next to a Communist one. Nowadays, it is the conservative movement that proposes unification. Carinthian Slovenes were ideologically divided from their first political movements (Malle 2009, 109).

One could conclude that the forbidding framework for political participation of minorities in Austria, together with German nationalism in Austrian major parties in the 1970s, led to a division in strategies of minority representatives for achieving political participation. However, in the described circumstances, participating in ethnic Slovene parties or in bigger German-speaking parties in Austria should not be seen as mutually exclusive strategies. The success of the Unity List as a regional bilingual party – not just for ethnic Slovenes – but as an integrated open bilingual party with a local focus (Pirker 2017, 125), as well as success for Carinthian Slovenes integrated into major parties indicate two promising tendencies. However, legal changes in Austria still seem necessary.

The political participation of Carinthian Slovene youth is visible, but mostly outside the established political structures of the minority. This could be considered as a challenge for the representative organisations. The delicate question of whether major parties offer better opportunities for successful Carinthian Slovene female politicians than traditional minority representative organisations could be addressed in another paper.

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Notes

[1] See e.g. Vouk, R., 2011.

[2] See e.g. the joint letter of Marjan Sturm, Valentin Inzko and Bernard Sadovnik, the chairmen of the Carinthian Slovene representative organisations the ZSO, NSKS and SKS to Peter Kaiser, the new Governor of Carinthia in June 2013. Kaiser spoke both German and Slovene in his inaugural speech. In the letter, beside other topics, minority languages as official languages of the EU are addressed (SLO.AT, 2014)

[3] See Enotna Lista/Einheitsliste – EL.

[4] See YENI – The Youth of European Nationalities.

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The Political Participation of the Roma in Slovenia

The article deals with the system of political participation of the Roma in Slovenia, focusing on the municipal level. It contains an analysis of the development of the legal regulation of political representation of the Roma and the system of electing Roma municipal councillors. There is discussion of problems connected with the establishment of the institute of Roma municipal councillors, resulting mainly from unclear and inadequate legislation. The article further discusses the role and importance of the Roma Community Council as the umbrella Roma organisation in Slovenia. The introduction of the institute of Roma municipal councillors is seen as an important step forward in the political inclusion of the Roma, while the current form and way of working of the Roma Community Council are not believed to offer the right foundations for the development of legitimate and effective Roma representation at the national level.

Keywords: Roma, Slovenia, political participation, political representation, Roma municipal councillors, Roma Community Council.

Politična participacija Romov v Sloveniji

Prispevek obravnava sistem politične participacije Romov v Sloveniji. Osredotoča se na politično participacijo na občinski ravni. Analizira razvoj pravne ureditve romskega političnega predstavništva in sistem izvolitve romskih občinskih svetnikov. Izpostavlja zaplete ob uveljavljanju instituta romskih občinskih svetnikov, ki izhajajo predvsem iz nejasne in pomanjkljive zakonodaje. Obravnava tudi vlogo in pomen Sveta romske skupnosti kot krovne organizacije Romov v Sloveniji. Uvedbo instituta romskih svetnikov ocenjuje kot pomemben korak naprej na področju političnega vključevanja Romov, nasprotno pa opozarja, da trenutna oblika in način delovanja Sveta romske skupnosti ne nudita prave osnove za razvoj legitimnega in učinkovitega romskega predstavništva na nacionalni ravni.

Ključne besede: *Romi, Slovenija, politična participacija, politično predstavništvo, romski občinski svetniki, Svet romske skupnosti.*

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1. Introduction

Democratic systems are based on the inclusion and political participation of individuals who are part of the system. In direct and indirect representative democracy, where there is participation through elections, the political system would in an ideal situation precisely reflect the composition of the society it represents and the matters the individual communities within this society are faced with would be suitably reflected in political debate (ENAR/ERIO 2007, 1). Since an ideal situation does not exist, the interests and needs of minorities and less privileged communities often remain overlooked, unheard and unfulfilled. In order to ensure the more equal inclusion and participation of minorities within the system of political decision-making, certain adjustments to the system are usually required, directed at the removal of the factors hindering the inclusion and participation of minorities.[1]

The Roma are one of the ethnic minorities which, not only in Slovenia but also elsewhere in Europe, has always had to face numerous social, political and economic challenges[2] that prevented their full integration into the wider society and active participation in politics (Denton 2003, 3, Žagar, 2002). As a result of this, the Roma's political participation is usually at a low level, both with regard to the number of Roma who participate in political processes and to the quality and effects of their participation (ENAR/ERIO 2007, 1–2). The many efforts by various organisations for the improvement of the conditions the Roma face with regard to housing, health care, education, human and citizen rights, and employment have in recent decades brought a measure of progress, although far from enough. According to some international organisations (Open Society Foundations 2013, OSCE 2000, 8–9), one of the main reasons for the failure of these efforts to produce more tangible results lies in the very fact that the Roma themselves only rarely participate in the leadership or functioning of these organisations. This is why the key challenge in the future will be how to include the Roma in decision-making processes, in particular with regard to the matters that concern their community. In this way, the greater legitimacy of the adopted decisions would be ensured and probably also wider support among the target group for the implementation of the measures. Without equal participation of the Roma in political and public life, long-term solutions for the key problems plaguing the Roma community can probably not be expected (Open Society Foundations 2013).

The main aim of this article is to present the system of political participation of the Roma in Slovenia, to give a short outline of its development, examine the effectiveness of the existing system and draw attention to the key problems and challenges that appear in practice. In doing so, most attention will be given to political participation at the local level, which is with regard to the possibilities and activities of the Roma in Slovenia at the moment the most developed and most important. Prior to this, for comparison and the establishment of a

wider context, there is a short presentation of the situation and some of the general challenges connected with political participation encountered by Roma communities elsewhere in Europe.

2. The Problems and Challenges of Political Participation of the Roma in Europe

Different European countries have different forms or models of political participation of the Roma, extending from local to national levels.[3] The Roma only rarely manage to acquire representative positions through a model of general (national) representation with participation in political parties. Frequently, political parties have no interest in defending the Roma's interests and they rarely include Roma on their candidate lists (OSCE/ODIHR 2013, 51); even when they do so, the Roma are usually placed at the bottom of the list, where they have little chance of being elected (ENAR/ERIO 2007, 3). For more effective inclusion and participation of the Roma in political and decision-making processes it would be necessary to introduce measures aimed at the removal of the factors that hinder their equal participation. These include: racial prejudice and stereotypes about the Roma among political actors and voters from the majority society (Vermeersch 2000); institutional discrimination within the political system; direct and indirect pressures on the Roma as voters, the buying of votes, voter fraud; lack of education or even illiteracy of the Roma and the related problems in obtaining relevant information; being uninformed about possible forms of participation or lack of comprehension of the rules, procedures and significance of specific forms of social and political participation; the lack of qualifications of Roma candidates for specific functions and lack of political experience among the Roma; the lack of appropriate personal documentation, and various legal and administrative obstacles (OSCE/ODIHR 2016, 5–6, ENAR/ERIO 2007, 2–3, Komac 2007a, 125). In some countries, Roma who wish to participate in the political processes form their own parties, but the result of elections and public opinion surveys (e.g. in Bulgaria and Slovakia)[4] indicate that Roma voters, in spite of the general mistrust in political parties and their readiness to represent Roma interests, often show a preference for mainstream rather than Roma parties. One of the reasons is the conflict and rivalry between the different groups within the Roma communities themselves, which prevent the Roma from voting as a unified body (Open Society Foundations 2013).

More frequently, Roma representation is connected with the system of the special representation of minorities, where the Roma (be it alone or with other minorities) have a guaranteed seat in the representational bodies.[5] This kind of regulation at first glance signifies a positive step towards ensuring the better inclusion of the Roma in decision-making processes, but in and of itself, as shown by practice, it does not necessarily guarantee actual opportunities for

the improvement of the Roma's position. Often it is only a symbolic gesture, creating an impression of the Roma's inclusion, while the elected representatives of the Roma community have practically no influence on the actual policy creation. At the same time, this special treatment on the basis of group minority rights preserves the Roma's separation from mainstream politics (Sobotka 2004). In order for the guaranteed representation of the Roma to be effective, it would have to be supported by other mechanisms, such as sufficient financing, education and training of Roma candidates and representatives, granting the Roma representatives a seat on the committees and other bodies that deal with minority matters, the possibility of a veto in matters concerning the Roma community, and so on (Sobotka 2004, Komac 2007a, 125–127).

This article will pay attention to the extent to which the problems identified by researchers in other European countries are reflected in the political participation and activities of the Roma in Slovenia. In the analysis of the existing situation in Slovenia, the article uses as the starting point the supposition that there are two preconditions for equal and effective political participation of the Roma: firstly, that the Roma community is well organised and active; and secondly, that it has the support and help of the majority society, i.e. the state. This research aims to establish whether the Slovene legal regulation is contributing to the establishment of a Roma political elite which can equally and effectively represent the interests of the Roma community(ies) in Slovenia, or whether the established system is merely a façade that creates the impression of the inclusion of the Roma in political decision-making, but does not guarantee actual political power, influence and equal participation. Another interesting question is whether the Roma community in Slovenia is sufficiently self-organised and active, and whether it has adequate resources (human, financial) for effective participation in the system of political representation established by the Slovene state.

3. Development of the Formal Establishment of Political Representation of the Roma at the Local Level

The legal and formal foundation for the political representation of the Roma community at the local level is the reference to the Roma in Slovenia's Constitution. Conditionally, it is possible to talk about specific historical forms of political representation even before the 1990s. A number of traditional forms of political representation and participation were known in the Roma community, such as elders or chiefs (Štrukelj 2004, 74, Trdina 1957, 5–12). In principle, this involved a form of leadership of the extended family which, among the many other functions, included mediation between the community and the authorities. This role was usually played by men (Štrukelj 2004, 70, 73–74, Pirc 2013, 42). The institution of Roma chief was preserved longer among the

Roma in the south-east of Slovenia, until the second half of the 20th century. The decline and practical disappearance of this role is the result of the modernisation of Roma life and of the wider socio-political and economic changes during the time of the socialist Yugoslavia.[6]

Until the late 1980s, in the then Socialist Republic of Slovenia, no systematic initiatives could be found for the regulation of special Roma political representation, either from the Roma or the central authorities, which was mostly the result of the fact that, in contrast to the Italian and Hungarian minorities and their political representation, the Roma community was not recognised at the constitutional level until 1989. Šiftar (1990, 83) states that "a rather heated debate" led to the formulation of a constitutional amendment (LXVII) in which, among other things, it said that the realisation of the Roma's special rights shall be regulated by a specific law. Šiftar adds that the drafting of that law "drowned in the newly occurring and long lasting changes in Slovenia and Yugoslavia" (1990, 83). During the period of Slovenia gaining independence, a desire for a more specific regulation of the Roma's status as an ethnic minority was expressed by Roma activists fighting for the rights of the Roma community, among them Rajko Šajnovič (1991) and Vlado Rozman (1991), while the necessary support for this was given by a number of the representatives of the then authorities.[7] As a result, Article 65 of the Constitution of the Republic of Slovenia states that "The status and special rights of the Romany [sic] community living in Slovenia shall be regulated by law." But as earlier in Yugoslavia, in the new state the drafting of the new law on the Roma community dragged on – altogether for sixteen years. Meanwhile, provisions about the regulation of the status of the Roma community and its members have been included in many sector-specific laws.

With regard to the regulation of the Roma's political participation, of key importance is the Local Self-Government Act (ZLS) of 1993, which in Paragraph 5 of Article 39 states: "In territories [municipalities], populated by the autochthonous Roma community, the Roma shall have at least one representative in the municipal council." As in the above mentioned constitutional article, this law also involves a short provision with unclear criteria according to which the autochthonous nature of the Roma is to be ascertained with regard to the individual municipalities where they live. During the first years after the adoption of the Local Self-Government Act, because of this incompleteness and the contentious and exclusivist nature of the concept of autochthonism,[8] in 1994 only the Murska Sobota municipality realised the right of electing a Roma municipal councillor, in spite of the fact that the municipality's statute had not yet been amended for this. Five years later, the municipalities of Murska Sobota and Rogašovci amended their statutes in such a way that they enabled the election of a Roma councillor. On the other hand, in 1998 in the municipality of Novo mesto, Rajko Šajnovič was denied the possibility of standing as a representative of the Roma community in the municipal council as the municipal statute did not allow for this possibility and the Local Self-Government Act was unclear.

On the basis of Šajnovič's initiative for assessing the constitutionality of the statute of the Novo mesto municipality, in 2001 the Constitutional Court concluded that both the Local Self-Government Act and the statute are inconsistent with the Constitution (Komac 2007b, 10–11, Constitutional Court Decision 2001). This led in 2002 to the adoption of the Act Amending the Local Self-Government Act (ZLS-L), which amended the Local Self-Government Act with Article 101a, which specifies the municipalities where the right to elect one[9] Roma municipal councillor has to be implemented:

> The municipalities of Beltinci, Cankova, Črenšovci, Črnomelj, Dobrovnik, Grosuplje, Kočevje, Krško, Kuzma, Lendava, Metlika, Murska Sobota, Novo mesto, Puconci, Rogašovci, Semič, Šentjernej, Tišina, Trebnje and Turnišče must, by the time of the local elections in 2002, guarantee Roma community in the municipality the right to one representative on the municipal council (Article 101a, Act Amending the Local Self-Government Act – ZLS-L).

Considering it is clear that all the Roma in Slovenia, whether autochthonous or non-autochthonous, do not live only in these twenty municipalities, the question of what criteria were used in the selection of these municipalities remains open (Pirc 2016, 248). Thus – only five years later – there followed new amendments which, however, were again incomplete since in Slovenia's legal documents the criterion of autochthonism is not defined.[10] Here, we are talking about the 2007 Act Amending the Local Self-Government Act (ZLS-N), where Paragraph 6 was added to Article 39 of the Local Self-Government Act:

> The Government shall in a decree determine the criteria on the basis of which the autochthonous nature of the settled Roma community shall be defined, which is a condition for the determination of a Roma representative in the municipal council in line with the previous paragraph (Paragraph 6, Article 39, Act Amending the Local Self-Government Act – ZLS-N).

This incompleteness was the reason for a change of Paragraph 6 of Article 39 two years later, which now says (Act Amending the Local Self-Government Act, ZLS-P): "Municipalities / … / [the list of the above-mentioned group of twenty municipalities] are bound to guarantee the right of the Roma community settled in the municipality to one representative on the municipal council".

Although Paragraph 6 now no longer mentions autochtonism, Paragraph 5 in Article 39 of the Local Self Government Act, which refers to this concept, remains unchanged.

In 2011, the Government Commission for the Protection of the Roma Community adopted a decision that the Government Office for National Minorities should on its behalf put forward an initiative to the then Government

Office for Local Self-Government and Regional Policy that the list of the municipalities[11] in which one member of the municipal council is a representative of the local Roma community be extended. The Government Office for Local Self-Government and Regional Policy, as the body responsible for amendments to legislation, could influence changes to the list of municipalities in Article 39 of the Local Self-Government Law, but any realisation of the initiative was halted due to procedural problems and the lack of interest on the part of the relevant bodies or Roma organisations (Office for National Minorities, 2011, Personal correspondence with the director of Office for National minorities (Stanko Baluh), 20 February 2017).

The procedure for the election of a member (members) of a municipal council from among the Roma community is determined by the Local Elections Act (ZLV). This law states that members of the Roma community on the electoral register also have the right to vote for and be elected to the municipal council as a representative of the Roma community (Article 7). The right to vote as a member of this community is registered in the special electoral register (Article 8). The criterion for including a member of the Roma community on the special electoral register is determined by the Roma Community Council,[12] particularly on the basis of:

- maintenance of a long-lasting, solid and permanent tie with the community, or
- care for the preservation of everything that constitutes the joint identity of an individual community, including the culture or language, or
- family relations up to once removed in a vertical line with a citizen who is a member of the Roma community and who already has a recognised right to vote (Article 12 of the Voting Rights Register Act – ZEVP-2).

Elections for a member of a municipal council representing the Roma community are held following the majority principle (Article 10 of the Local Elections Act), while the candidates are nominated by the signatures of a minimum of 15 voters (members of the Roma community in the municipality) or by a Roma organisation in the municipality (Article 49 of the Local Elections Act).

The members of the Roma community have a double voting right in the municipal elections. This double voting right of members of national minorities in Slovenia is unique in the world. It means that minority members appear in politics as a double political subject: first, as ordinary citizens and second as citizens with special ethnic attributes. They can thus actively participate in the creation of the mechanisms for the preservation of their own ethnic identity. The double right to vote of members of ethnic minorities has not been without its critics. There was an initiative for the assessment of its constitutionality, but the Constitutional Court decided that the provision about the right to vote is not in contradiction with the Constitution (Constitutional Court Decision 1998).

An additional form of participation of the Roma in the regulation of municipal matters concerning the Roma community is the special working body for the monitoring of the position of the Roma community. In line with the Roma Community Act (Article 7), the working body must be established by all the municipalities where in line with the Local Self-Government Act a representative of the Roma community is elected to the municipal council. The working body must consist of at least six members, of which up to a half must be residents of the municipality who are not members of the municipal council, and of the latter, the majority must be members of the Roma community. A Roma councillor is by function a member of this working body, the tasks of which relate particularly to issues concerning the members of the Roma community in the municipality, their development, and preservation of the Roma language and culture (Article 8 of the Roma Community Act).

This guarantee of the membership of a Roma councillor (and a number of other members of the Roma community who are residents of the municipality in question) in a special municipal working body for monitoring the position of the Roma community represents one of the supportive measures mentioned by Sobotka (2004) as conditions for increasing the effectiveness of or for guaranteeing the de facto significance of the guaranteed mandate of the Roma in representative bodies.

4. Challenges and Complications regarding the Implementation of the Institution of the Roma Municipal Councillor

During the first years following the Local Self-Government Act only two Prekmurje municipalities, where even before there had been a kind of a dialogue between the Roma community and the municipal authorities, amended their municipal acts in such a way that they facilitate the election of Roma councillors. In many other municipalities with a Roma population complications arose in the local elections in connection with the implementation of this instrument. There was the above-mentioned case in 1998, when the candidature of a Roma representative from the municipality of Novo mesto was rejected because of the unsuitable municipal statute, which influenced the amendment of the relevant legislation – the Local Self-Government Act. Because the deadline and the municipalities with a Roma population were not determined, in the local elections in the 1990s the Roma were unable to realise their right to elect a political representative (Obreza 2003, 51).

In connection with the November 2002 elections, in spite of the list of the twenty municipalities already being known, which should have facilitated the election of Roma councillors, in several cases new complications and obstacles occurred. These appeared before, during and after the elections. They mostly

originated in the complaint voiced by some municipalities that they had been arbitrarily – i.e. unjustifiably and without the prescribed criteria – included on the list of those municipalities with a Roma population. Even before the elections, in October 2002, there was a demand for an assessment of constitutionality submitted to the Constitutional Court by councils in the municipalities of Grosuplje, Kuzma and Turnišče. In response, the Constitutional Court decided that Article 14 of the Act Amending the Local Self-Government Act, i.e. the article that contained the list of the relevant municipalities, was not inconsistent with the Constitution (Constitutional Court Decision 2002a).

Furthermore, immediately after the elections, following a government demand, the Constitutional Court also concluded that the municipal statutes of six of the twenty municipalities on the list were still inconsistent with the Local Government Act, as they did not guarantee the Roma communities living in them the right to a representative on the municipal council. The six municipalities were: Beltinci, Grosuplje, Krško, Semič, Šentjernej and Trebnje. The Constitutional Court decided that these municipalities should correct this inconsistency within 45 days of the first session of the newly-elected municipal councils and within 30 days after the publication of the amended statutes call the elections of the representatives of the Roma communities in line with the provisions applying to early elections (Constitutional Court Decision 2002b).

In the local elections on 10 November 2002, Roma councillors were elected for the first time in the remaining 14 municipalities and in Trebnje municipality, in spite of the fact that the latter still had not made the necessary amendments in its statute (Hahonina 2002).[13] In the first half of 2003, the statutes were amended and elections held in the remaining group of municipalities without elected Roma councillors,[14] except in Grosuplje. In spite of this, the procedures were implemented within the given deadlines only in the municipalities of Beltinci and Krško (Krajnc 2006, 237, STA 2003). The municipality of Grosuplje neither amended its statute nor carried out an election of a Roma municipal councillor even in the next local elections in 2006 (Hahonina 2006).

The Grosuplje rejection of the instrument of Roma councillor was the reason for certain changes to the Local Self-Government Act brought by amendments in 2009. Article 39 was extended with paragraphs seven, eight, nine and ten, the most significant focus of which is that if one of the listed twenty municipalities "does not ensure the Roma community its right to a representative in the municipal council by each call for regular local elections, the elections will be carried out by the State Election Commission on the basis of the law regulating local elections", while the implementation of the elections would be financed by the national budget at the expense of the municipality in question. In addition, Article 6 of the amending act stated that the municipality of Grosuplje must organise the election of the Roma representative to its council within three months and the call for elections should be issued within 30 days of the amending law (ZLS-P) coming into force. But yet again this did not happen; instead, in

late 2009 the municipality of Grosuplje again turned to the Constitutional Court, claiming that the legislator had included it arbitrarily on the list of the municipalities, which had to guarantee a Roma councillor in line with Article 39 of the Local Self-Government Act. The Constitutional Court rejected this claim, but the municipality of Grosuplje has to this day not amended its statute (Constitutional Court Decision 2010b, Statute of Municipality of Grosuplje). As a result, the election of the Roma councillor in this municipality has each time been carried out by the State Election Commission.

In addition to the above mentioned influences on changes to the legislation and various complications of a legal-formal nature, the elections of Roma councillors also bring with them various consequences and practical challenges faced by the candidates and elected representatives of Roma communities.

Table 1: Elections of Roma Municipal Councillors between 2002 and 2014

	2002	2006	2010	2014
Number of municipalities with one candidate	7	9	9	12
Number of municipalities with two candidates	4	9	10	6
Number of municipalities with three candidates	2	2	1	2
Number of municipalities with five candidates	1	/	/	/
Number of candidates proposed by a society		1	2	3
Number of female candidates		4	4	6
Number of male candidates		28	26	22
Number of women elected	1	2	2	5
Number of men elected	13	18	18	15
Number of those elected for the second time	/	7	11	6
Number of those elected for the third time	/	/	5	1
Number of those elected for the fourth time	/	/	/	4
The highest number of votes for the elected candidate	/	255	264	240
The lowest number of votes for the elected candidate		12	16	6
Total number of submitted votes	/	1,780	1,900	1,615

Sources: Hahonina 2002, State Election Commission 2017.

An interpretation of the result of the local elections in the Roma community, the electoral behaviour of the Roma and a critical assessment of the functioning of the Roma councillors is very difficult due to the very different socio-economic situation in individual municipalities and the previous history of the relations of the local Roma communities to the majority population and the authorities. There is very little scope for generalisation and a requirement to consider a very wide range of factors in each local environment separately.

The results of the last four[15] elections of Roma councillors to municipal councils show that they include many more men than women, who rarely decide

to stand. In 2006, there were only four women candidates for Roma councillors, the same number in 2010, and six in 2014. In the 2002 elections, one woman was elected as a Roma councillor, but the data about the number of female candidates standing is unavailable. In the 2006 and 2010 elections, the success rate of the female candidates was 50 per cent (at each election, two out of four were elected), while in the last elections in 2014, five candidates out of six were elected.

One of the problems that appear in connection with the elections of Roma councillors to municipal councils is that the voters have no possibility of choosing from among different candidates as there is often only one. In the 2006 elections, in nine out of the 20 municipalities there was only one candidate, in 2010 the same and in 2014 there were as many as 12 municipalities with only one candidate. There are very few municipalities with three candidates (1 or 2 per election) – all are in Prekmurje, while more than three candidates appeared only once, in 2002, when in one of the Bela Krajina municipalities five candidates stood. It is difficult to talk about uniform reasons influencing the number of candidates, as it would be an over-simplification to divide municipalities with Roma councillors into the more developed Prekmurje municipalities and the less developed ones in the south-east of Slovenia. If an attempt is made to generalise, among the reasons for a low number of candidatures could be the limited education and qualifications of the members of the Roma community as potential candidates or their inexperience in political and administrative functions (Krajnc 2006, 240–241, MMC RTV SLO & STA 2014),[16] while on the other hand, indirectly also the lack of interest in this post and the demographic smallness of the Roma community in some of the municipalities (Zupančič 2007, 244–246, CSW Estimations 2011). Moreover, this kind of analysis of the electoral behaviour in the municipalities with Roma councillors must also take into account that there is a lack of data about all the eligible Roma voters in individual municipalities; in addition, there are only estimates about the size of the Roma population in some of the municipalities.

As mentioned above, on the basis of Article 49 of the Local Self-Government Act, candidates for Roma councillor can be proposed by a group with at least 15 voters' signatures, or a Roma society in the municipality, when the same rules apply as for candidacy by political parties. In this way, Roma cultural societies are granted certain competences otherwise possessed by political parties. With this mechanism the legislator took into account the social reality and adapted to the Roma community, which at the time of the adoption of the law (and still today) is not politically organised into parties, and provided it with a specific group form of organised support for individual candidates. In cases where the number of eligible voters in a specific municipality is small (in the elections of Roma councillors this number can sometimes be lower than 30), the possibility of candidates being proposed by a society thus facilitates a wider

range of candidates. In spite of this, Roma societies have so far not often become engaged in the process of electing Roma councillors. In the 2006 elections, only one candidate was put forward by a Roma society, in the 2010 elections two candidates and in the 2014 elections three. In candidatures with the support of a society it may arise that a specific candidate is proposed by a very small number of people, since in line with Article 8 of the Societies Act (ZDru-1) a society may be founded by three natural persons with a capacity for business or three legal persons. This situation could be problematic in cases when the candidate proposed by a society with very few members (it could even be a family) is the only candidate in the elections that are attended by a very low number of voters.

Re-election among Roma councillors is quite common – in 2006, seven were re-elected, in 2010 eleven (of these five for the third time), and in 2014 six (of these, one for the third time and five for the fourth time). This opens up the question of what the reasons are for some Roma councillors holding the position of the Roma representative in their municipality for so long. The president of the Forum of Roma councillors said: "When you stand for the second time and then again, you no longer present yourself, but your work, on the basis of which the people entrust you with a new mandate" (Petrovčič 2010). Undoubtedly the quality of the work of the Roma councillors is one of the reasons for re-election, but the question is if this is the case in all the examples or whether there are other factors in the background. On the basis of the information that we acquired in informal conversations with the inhabitants of different Roma settlements around Slovenia,[17] as well as literature and articles (e.g. Krajnc 2006, 240, MMC RTV SLO & STA 2014) a conclusion can be drawn that (multiple) re-election of some Roma councillors can be the result of: conflicts between individual groups/families within the Roma community and the resulting voting passivity or a boycott by a specific part of the community; intimidation of voters and other (potential) candidates; shortage of educated and suitably qualified candidates. Those who have held the position of Roma councillor for some time acquire certain skills and knowledge, forge social networks and acquire social power, all of which gives them an advantage over the other candidates, who may be uneducated and/or unskilled in acting on the political scene. This kind of advantage and power may be expressed in the existing Roma councillor being unopposed at the next election. In the 2006 elections, only one of the seven re-elected Roma councillors had no opponent, in the 2010 seven of eleven re-elected councillors had no opponent and in the 2014 elections none of the six re-elected councillors had an opponent.

In practice, the issue of the legitimacy of the elected Roma councillors often arises, since due to the low turnout of Roma voters, some councillors are elected with a very small number of votes. The smallest number with which one of the Roma female councillors was elected in 2014 was six. One of the main factors influencing this situation is that the Roma in Slovenia are notably dispersed

within municipalities. The large majority live in rather isolated small settlements where they are often related and focused only on their micro-local issues. Only in one municipality in Prekmurje do the Roma live in a single settlement, elsewhere the number of settlements or villages in a municipality can be as many as five. With regard to the Roma in the south-east of Slovenia, who are in general badly integrated into the majority society and are deprived in practically all the key areas of life, it is also easy to understand that these settlements and their potential candidates compete against each other (or there is at least a considerable amount of animosity) in the fight for the potential resources brought by the promise of their representative being elected as the Roma councillor. Zupančič (2014, 196) says that in these instances "the manoeuvring of the Roma councillor is extremely difficult even among the representatives of individual settlements and they are sometimes exposed to different pressures or attacks". Sometimes, as indicated by a statement from the Črnomelj mayoress, individual Roma councillors may be unaware (or may not care) that they represent or should represent all the Roma within the municipality and not only their home settlement (MMC RTV SLO & STA 2014). It is understandable that the Roma councillors who represent only the particular interests of an individual (i.e., their own) Roma settlement do not have the wider support of the Roma population in the municipality.

In addition to the already mentioned factors, the effectiveness of the Roma councillors' work is also considerably influenced by the attitude of the other members of the municipal council. As noted by the president of the Roma Councillors Forum, Darko Rudaš,

> irrespective of the fact that in general the institution of Roma councillor is well established, / … / at the municipal council meeting, the discussion is often still on the borderline of democracy and xenophobia. A great deal depends on how the municipal council sees Roma issues and how much it is capable of establishing cooperation with the Roma councillor in looking for solutions for the benefit of all (Petrovčič 2010).

The education and qualifications of the Roma councillor for municipal council work undoubtedly contribute to his or her acceptance by the other councillors. A Roma councillor who is not able to constructively participate in the work of the municipal council may remain marginalised and consequently also ineffective. The education and training of Roma councillors and potential candidates for this function are thus important challenges that cannot be avoided if there is a desire for greater effectiveness of the institution. Education is not necessary only for the councillors and candidates, but also for the wider Roma electorate as it is important that everyone understands what the mandate of a Roma councillor means, what are his or her duties and responsibilities. This would make the work of the Roma councillors at least slightly easier, as now, to use the words of the former Novo mesto Roma councillor Dušica Balažek, in their work they often find themselves in an unfavourable position or caught between the interests of the

local communities and the completely different wishes and expectations of the Roma community (MMC RTV SLO & STA 2014). Due to the impossibility of fulfilling all the expectations of the Roma community (including the unrealistic ones), the Roma councillors may be subject to reproaches that they are doing their job badly or that they are doing it only for their own good or for the good of their family or settlement. These voter sentiments may lead to mistrust in politics and political representatives, and to apathy and non-participation in elections. This can result in a low number of votes received by the elected Roma councillor, which puts a question mark over the legitimacy of his or her representation of the interests of the whole Roma community in the municipality.

The questionability of the legitimacy of representation with a low level of support from the electorate concerns not only the municipal level, but is also transferred to the national level, where every four years Roma councillors elect from among themselves seven representatives in the Roma Community Council – a body that represents the umbrella organisation of the Roma community at the national level. Because the authors of this article do not have the data about the number of the eligible voters for the elections of Roma councillors in individual municipalities, we cannot ascertain what proportion of the eligible voters attended the elections in individual municipalities. In some where there are not many Roma, the proportion of adults is even smaller and it is very likely that many of these are not on the electoral register for the election of the Roma councillor. Consequently, it is difficult to claim that the low number of votes given to individual candidates for the position of a Roma councillor is the result of low turnout of voters. It could be the result of a small number of Roma inhabitants in that particular municipality old enough to vote.

According to the Ministry of the Interior (Personal correspondence with the director of Office for National minorities (Stanko Baluh), 20 February 2017), there were 3,051 eligible voters, members of the Roma community, on 14 November 2016. The number of Roma who voted for a Roma councillor in the last elections in 2014,[18] was 1,615 (State Election Commission 2017). If we compare these numbers,[19] we can conclude that the last elections were attended by over a half of the eligible voters among the Roma.[20] This means that the turnout of Roma voters in the local election in 2014 was higher than the general turnout, which was 45.22 per cent (Lokalne volitve 2014, 2014b). It is necessary to add that the number of Roma voters in the last elections, in comparison to the 2010 and 2006, was smaller. In 2006, a total of 1,780 voters voted for Roma councillors, and in 2010 as many as 1,900. There are differences between individual municipalities and in some the turnout increased in the last elections. On the basis of the available data, it is impossible to assess why these changes and differences occurred. Regardless of the decrease of the Roma voters in the last elections, the data about the total turnout of Roma voters show that they are not disinterested in the political process, as is sometimes assumed.

5. The Political Representation and Participation of the Roma at the National Level

At the national level, the Roma in Slovenia do not have a mandate in the representative body. The only way that they can reach a mandate in the National Assembly is through candidature on a list of a political party in the general elections, and so far no representative of the Roma community has managed to do this. Until 2010, no party in the parliamentary election included a member of the Roma community on their list of candidates. In the 2011 elections, one party did so, but the party did not win a seat in the National Assembly. In the 2014 elections, one party again had a Roma on its list, but he did not get sufficient support to be elected. The Roma in Slovenia have so far thus not been successful in elections via mainstream political parties.[21] Moreover, political party programmes do not usually pay any attention to Roma issues in order to address Roma voters in particular, and among the Roma there has so far not been a candidate who would succeed in attracting the votes of the wider population.

For the themes concerning the Roma community in Slovenia to become part of the agenda of decision-making bodies and for these bodies to also have a suitable partner on the side of the Roma community, the Roma Community Act (ZRomS-1), adopted in 2007, envisaged the founding of the Roma Community Council of the Republic of Slovenia (hereafter: the Council). The Council, which was constituted in June 2007, represents the interests of the Roma community in Slovenia in relation to the state bodies. In addition, it carries out various duties and discusses issues relating to the interests, status and rights of the Roma community in Slovenia, to the preservation of the Romany language and culture, as well as to the development and preservation of contacts with Roma organisations in other countries. The Council can offer suggestions, initiatives and opinions concerning specific matters to the National Assembly, the National Council of the Republic of Slovenia, the government, other state bodies, the bearers of powers conferred by public law and the bodies of the self-governing local communities (Article 12 of the Roma Community Act, ZRomS-1).

The Council consists of twenty-one members, of which fourteen are representatives of the Union of the Roma in Slovenia and seven representatives of Roma municipal councillors from the group of 20 municipalities, where the right to this position applies (Article 10 of the ZRomS-1). Some concerns have been raised (e.g. Bačlija & Haček 2012, 62) that the domination of the Union of the Roma of Slovenia (URS) in the Roma Community Council signifies a lack of representation of the wider Roma community. The Human Rights Ombudsman submitted an initiative for the assessment of the constitutionality of the provision that defines the composition of the Council, but the Constitutional Court could find no inconsistency with the Constitution (Constitutional Court Decision 2010a). This power of the Union of the Roma of Slovenia founded in

1996 in Murska Sobota is obviously a result of the fact that during the period before the establishment of the Council, the state institutions due to its activities considered it a de facto "highest body of the Roma organisation in Slovenia" (Office for National Minorities 2004, 16). In the opinion of one of the long-lasting Roma municipal councillors from Prekmurje, because of this situation the Council is unable to establish itself as a serious discussion partner for the state and it hints at the fact that the "state does not wish for Roma to articulate themselves as a political subject" (Petrovčič 2010).

It could be said that the responsibilities of the Council are too limited and narrowly defined for it to be effective in improving the situation of the Roma in Slovenia. Its activities are limited to discussions, and to drafting initiatives, proposals and opinions. Its opinions are not binding, which means it lacks the power for the effective realisation of Roma interests. The structure of the Council's organisation that favourises only certain Roma societies, raises a number of concerns about the fairness of such an arrangement. Besides, by providing a mandate to the representatives of societies, it is bypassing the political responsibility of these representatives to the wider Roma population. Such arrangement also preserves the unequal role of the Roma community in relation to the Italian and Hungarian ethnic minorities in Slovenia. In order to realise their needs and interests and to participate in an organised manner in public matters (Article 1 of the Self-Governing Ethnic Communities Act), the latter are organised in self-governing ethnic communities, the representatives of which at the municipal level are elected by the members of the ethnic minorities in direct elections (Article 7 of the Self-Governing Ethnic Communities Act).

6. Conclusion

Roma activity in mainstream politics in Slovenia is very weak, practically non-existent. As in other European countries, Roma candidates in Slovenia very rarely appear on the lists of mainstream political parties and they have no parties of their own. Political participation by the Roma functions mainly within the framework of the system of special representation, which includes: a) a guaranteed mandate of Roma councillors in municipal councils in 20 municipalities, b) the representation of the Roma in special municipal working bodies for monitoring the position of the Roma community, and c) the establishment of an umbrella Roma organisation – the Roma Community Council – which presents the interests of the Roma community to the state bodies. An analysis of the political activities of the Roma community in Slovenia has shown that it is faced with very similar issues as those perceived elsewhere in Europe: from having to deal with racial prejudice and stereotypes about the Roma among the political actors and voters from the majority society, to systemic obstacles to equal participation, lack of political experience, lack of suitably educated and qualified human resources

within the Roma community, lack of information among the Roma about the possible forms of participation, and lack of understanding of the rules, procedures and importance of the specific forms of social and political participation. There are also conflicts within the Roma community itself, which occasionally result in various pressures on the Roma as voters or in a certain group of voters boycotting the elections.

This article began with two questions: firstly, is the Roma community in Slovenia sufficiently self-organised and active and does it have sufficient resources for effective participation in the existing system of political representation; and secondly, does the Slovene state give it sufficient help by creating the conditions (particularly legal foundations) that facilitate an actual equal and effective participation by the Roma? On the basis of the analysis and the presented findings, neither of the two questions can be fully answered in the positive, but in both areas the development of certain positive elements can be observed. The starting positions of the members of the Roma community for entry into politics and for sovereignly acting within it are modest; nonetheless, in the last ten years much has changed. New actors have appeared on political scene and there is a growing number of better educated and qualified Roma.[22] The Roma are no longer only closed in their own communities. Progress in the self-organisation and engagement of the Roma is also shown by the increasing number of Roma societies that are striving to improve the position of the Roma and the preservation of the special elements of the Roma culture. Societies are uniting into various associations for the achievement of common goals. In the past, the Union of the Roma of Slovenia had primacy over the presentation of the common interests of the different Roma societies, but now there are other associations appearing on the scene. This pluralisation is creating space for the establishment of the different interests that exist within the Roma community, which is by no means homogenous, but it can also create an impression of division and the worse organisation of the Roma in Slovenia. It is a fact that the Roma lack suitably educated and qualified human resources that could find within this pluralised space common denominators and act in the direction of joint development. In practice, it can be observed that the Roma who acquire a certain social, cultural and political capital usually use this capital for individual escape from the social margins – either they leave the Roma community and are swallowed up by the majority nation or they use the acquired capital from leading the Roma community for a comfortable individual life. There is still all too little use of the political, social and cultural capital for increasing what could be called the Roma public good. The Slovene state also contributes to this situation by setting a legal framework for the political participation of the Roma that does not guarantee or which even prevents the equal participation and inclusion of all the members of the Roma community and at the same time treats the Roma minority as a community that is in the phase of eternal (political)

adolescence, as a community that, due to huge developmental problems and the status of a deviant community, needs a suitable range of tutors and guards, and as a community that cannot be trusted with the responsibility for its own development.

In the state's attitude to the regulation of the political and other rights of the Roma there is a series of paradoxes which are mostly a reflection of the loose legislation or the unclear criteria it contains. Thus the right to elect a Roma municipal councillor is conditional on an unresolved and even controversial criterion of autochthonous or indigenous people, i.e. the historical presence of the Roma on the territory of individual municipalities, but this right is limited to twenty municipalities in spite of the fact that according to this condition, the list of the municipalities should be somewhat longer. On the other hand, the programmes aimed at helping the Roma improve their housing conditions, education and social care also include Roma living outside the above mentioned twenty municipalities. One of the reasons for such diverse and occasionally contradictory approaches to the Roma is a combination of two elements, which represent the foundation for the special treatment of this community: it is treated both as a (socially) vulnerable social group and as an ethnic minority that is entitled to special rights. The numerous measures aimed at improving the position of the Roma are based on treating them as a vulnerable social group which, however, does not (necessarily) have a connection with the special rights of the Roma as an autochthonous ethnic minority. A failure to understand this may lead to mistaken or unrealistic expectations with regard to the regulation of the status of the Roma in various spheres.

Another paradox is that the state is both implementing and encouraging the elected political representation of the Roma at the local level and at the same time does not fully enable the bearers of the elected representative functions to also represent the main formal discussion partner to the state bodies. Through the legal provisions about the composition of the Roma Community Council, this role is mostly granted to the representatives of Roma societies, who do not have a mandate confirmed by the electorate. Undoubtedly it is a positive development that Roma (cultural) societies are observing a growth in their activity and prominence in Slovenia. If it is understandable that in view of the generally marginalised position of the Roma in many parts of Slovenia the societies in this community at the local level play the role of a kind of a replacement political subject, it is perhaps less understandable that the law has allowed the societies to exert such weight also within the political representation of the Roma at the national level, as is the case with the Roma Community Council. The Council is dominated by the society the Union of the Roma, in spite of the fact that the Council was founded as a consultation body and a formal umbrella body of all the Roma a few years after the post of elected Roma municipal councillor was established. If we take into account the fact that during the preparation and

adoption of The Roma Community Act the Roma societies and the Union of the Roma were the most organized and actually the only functioning organizational structure of the Roma in Slovenia, such an arrangement was then quite logical. Roma councilors were at that time just beginning to associate and organize, among them there were also quite a few differences and disputes. But since then the situation has changed considerably and it is becoming apparent that the established arrangement no longer meets current social reality within the Roma community. This example shows that regulation of minority issues and institutions should not be static, but dynamic, paying attention to the social development and change, if necessary.

The institution of the Roma municipal councillor, in spite of the territorial limitations and frequent questions about the (il)legitimacy, the insufficient establishment and experience of individual Roma councillors (or candidates for this position), signifies an important step forward in the political inclusion of the Roma and the establishment of a constructive dialogue among the representatives of local and state authorities and the Roma community itself. It is also important from the viewpoint of the Roma taking responsibility for the development of their own community, which is of key importance for the achievement of any long-term solutions. If the aim is to increase the responsibility of the Roma for their own development and to encourage the RomaS to take responsibility for their own development, rather than being ever dependent on the state, the Roma have to be guaranteed a suitable level of self-government, headed by responsible, legitimately elected Roma representatives. This is the only way in which the triangle of political activity, consisting of rights, duties and responsibility, can be closed.

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Notes

[1] For some methodological considerations, see: Žagar (2017).

[2] Including: prejudice and stereotypes, poverty, unemployment, low educational level, unsuitable living conditions, language barriers (Denton 2003).

[3] More on this in OSCE/ODIHR (2013, 52–53).

[4] More on this in Denton (2003, 12).

[5] For example, in Romania and Kosovo, the Roma are guaranteed a seat in the parliament (Krause 2007, 16, Art. 64 of the Constitution of the Republic of Kosovo); in Croatia, they share a seat with other minorities (Fuka 2013).

[6] Now, there are only two examples left of the remnants of the former function of a chief in two larger Roma settlements – both are elders in their home villages of Vejar and Kamenci.

[7] E.g., Dušan Plut, who expressed this in Uvod [Introduction] (1991, 7) to the thematic issue of *Treatises and documents, Journal of Ethnic Studies*, with the telling title of *Romi na Slovenskem* [Roma in Slovenia].

[8] The issue of the autochthonous character or indigenousness of the Roma community in Slovenia has been written about by, for example Janko Spreizer 2004. Josipovič 2014 writes wider about the concept of autochthonism.

[9] It is necessary to note here that with this there also came a change in the diction about the number of Roma councillors. While in the first variant of the Local Self-Government Act from 1993, Article 39 stated that the Roma community in individual municipalities has "in the municipal council *a minimum* [authors' emphasis] of one representative", the amendment to this act from 2002 and all the following amendments talk about only one representative of the Roma community in the municipal council.

[10] In contrast, Bačlija and Haček (2012, 58) claim that the autochthonous label should refer to the Roma whose ancestors lived on the territory of Slovenia at least a hundred years ago.

[11] These were six municipalities: Ljubljana, Maribor, Velenje, Brežice, Ribnica and Škocjan.

[12] More about the Roma Community Council later in this article (see chapter 5).

[13] Due to procedural complications, the elections of the Roma councillor in the Novo mesto municipality were carried out in December 2002 (Hahonina 2002).

[14] There was a complication in the Semič municipality due to the incomplete legislation in this area, with individuals who did not belong to the Roma community entering their names on the list of candidates (Office for National Minorities 2004, 19).

[15] The analysis of the elections was carried out for the 20 municipalities for which the law dictates that they have to provide at least one seat in the municipal council for a representative of the Roma community. The data for the 2002 elections is incomplete, thus the analysis in some elements included only the elections in 2006, 2010 and 2014.

[16] It must be added here that in previous years positive shifts in the training of Roma councillors have been observed, as they attended numerous workshops, particularly as part of projects, such as Romano Kher – A Roma house.

[17] Carried out as part of their previous work in various projects organised by the Institute for Ethnic Studies.

[18] Including the subsequent elections in the municipality of Grosuplje, carried out in 2015.

[19] The data on the total number of eligible voters, members of the Roma community, for the year 2014 are not available, therefore we use the 2016 data.

[20] A rough estimate (with regard to the Assessments by the Social Work Centre) is that approximately 80 per cent of adult Roma in these 20 municipalities are registered in the electoral register of the members of the Roma community.

[21] Here, the example can be mentioned of a candidate of Roma origin who as a member of one of the political parties in 2014 unsuccessfully stood for the position of the municipal council in the local elections in one of the municipalities, which do not belong in the group of those with the right to a Roma councillors (Lokalne volitve 2014 2014a). In contrast, in the municipality of Novo mesto, one of the more active members of the Roma community there was at the same election elected into the municipal council – prior to this he was elected twice as the member of the local community. At the same election, two other candidates of Roma origin also unsuccessfully stood for the position of councillor in Novo mesto (State Election Commission 2017).

[22] In this respect, we can mention the development of the post of Roma assistant (more on this in Bešter et al. 2016), within the framework of which quite a number of young Roma acquired a national vocational qualification as a Roma assistant, a few finished secondary school, completed the baccalaureate and enrolled at university, while a few are still at secondary school. One of the Roma assistants holds the position of a Roma councillor in a Prekmurje municipality.

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Drino Galičić

De Jure vs. de Facto Minority Protection in Bosnia and Herzegovina

The article discusses the implementation of minority protection standards in Bosnia and Herzegovina. Reflecting upon the apparent dichotomy between particular domestic constitutional concepts and traditional national minority protection, it goes further and examines the impact of the latter on post-conflict reconciliation and confidence building amongst Bosnia's diverse communities. By highlighting discriminatory practices on the ground it argues that the more rigid the request for protection of collective rights, the less chance it has of being consensually accepted. Contextually, it analyses the influence of both European integration and regional dimension on inter-community and majority-minority relations in the country, and finds that proper enforcement of minority protection rights depends little on the quality of the legal framework in place, but rather on inventive diversity management strategies and tools that were missing in this specific case.

Keywords: constituent peoples, national minorities and Others, Bosnia and Herzegovina, numerically inferior groups, anti-discrimination, European integration, reconciliation.

De jure in de facto manjšinska zaščita v Bosni in Hercegovini

Avtor v članku obravnava implementacijo standardov manjšinske zaščite v Bosni in Hercegovini. V uvodu osvetli dihotomijo med specifičnimi lokalnimi ustavnimi koncepti in tradicionalno manjšinsko zaščito, v nadaljevanju pa analizira vpliv slednje na povojno spravo in ponovno krepitev zaupanja med skupnostmi, ki živijo v Bosni in Hercegovini. Predstavitev konkretnih diskriminatornih praks in aktualnih procesov dokazuje, da je teže doseči soglasje o zaščiti kolektivnih pravic, če so zahteve za te pravice toge. Avtor kontekstualno analizira vpliv evropske integracijske politike in regionalne dimenzije na odnose znotraj skupnosti, kakor tudi na odnose med večino in manjšino v Bosni in Hercegovini. Ugotavlja, da je uveljavitev manjšinskih pravic bolj kot od obstoječega pravnega okvira odvisna od inovativnih in uspešnih strategij in orodij upravljanja različnosti, ki pa jih v Bosni in Hercegovini niso razvili.

Ključne besede: *ustavna ljudstva, narodne manjšine in drugi, Bosna in Hercegovina, številčno inferiorne skupine, antidiskriminacija, evropska integracija, sprava.*

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1. Introduction

In Bosnia and Herzegovina, belonging to one of constituent peoples – Bosniacs, Serbs or Croats – is essential to an individual's ability to participate in political life. As a consequence, it has been referred to as country of multiple majorities with none of the main communities forming a clear majority of the total population. However, the publication of the results of the last census held in October 2013 by the Agency for Statistics of Bosnia and Herzegovina became a subject of political dispute, as they indicate that Bosniacs may have become by a slight margin the majority population.[1] In fact, the Republika Srpska contests the results, since they include many people who live, study or work abroad, but are registered in the questionnaire as full residents. Thus, it refuses to recognise almost 430,000 citizens, mainly Bosniacs, as residents of the country in the final results. This would reduce the overall population, as well as the total number of Bosniacs (Balkaninsight 2013, Josipovič 2016). The other collective groups in the country, including but not limited to the classic national minorities, such as the Roma or Jewish communities, are for the most part excluded from political participation. They belong to the so-called category of Others, predefined as any member of the other (minority) communities present in Bosnia and Herzegovina including persons who do not declare affiliation with any of the above three constituent peoples due to intermarriage, mixed parenthood or for other reasons.[2]

Contextually, the development of consociation democracy between three major ethnic groups through the Dayton Peace Agreement and the Constitution of Bosnia and Herzegovina (hereafter Constitution BiH), in Annex IV thereof, has allowed Bosnia and Herzegovina to remain stable enough to avoid a return to war, but has not facilitated the full political operation of the country necessary to consolidate democracy and enter into further integration processes, particularly those leading to European Union membership. Moreover, it has been confirmed in a series of cases brought before the European Court of Human Rights (ECtHR), starting with Sejdic and Finci vs. BiH (ECtHR, Application no. 27996, 22. 12. 2009), Zornic vs. BiH (ECtHR, Application no. 3681/06, 15.07.2014) up until the most recent case Pilav vs. BiH (ECtHR, Application no. 41939/07, 9 June 2016), that this model of democracy has created a discriminatory constitutional framework where belonging is interpreted exclusively along ethnic/territorial lines. As a consequence, the development and exercise of minority rights are hindered given that the political structure is based on special privileges for the main three communities, which often leads to the marginalisation and exclusion of minorities from important public posts. It also created a complex, highly fragmented, multi-layered institutional framework that impedes the effective protection of rights of all its citizens and makes minority communities particularly vulnerable to discrimination. The present research shows that this is also pertinent to Bosniacs, Croats and Serbs when they find themselves in *de facto*

minority situations in various territories and administrative units, thus creating a paradox in governance by majority ethnic elites. Moreover, even pressed by EU integration requirements, the shift from the Dayton "logic of belonging", i.e., the concept of "ethnic security" (Bojicic-Dzelilovic 2015) towards more inclusiveness has been unable to materialise. What, then, is the leverage that will change the paradigm of exclusivist belonging and allow for both *de jure* and *de facto* protection of all groups equally throughout the country is the main research question.

This article draws on a review of existing materials, together with first-hand field research, analysis of anti-discrimination cases against minorities before relevant courts, including situations of *de facto* minority in the past two years, interviews conducted with members of minorities, as well as discussions with public officials, representatives of the international community and civil society organisations. The paper begins with a brief assessment of the constitutional and political system, followed by specific examples of discrimination faced by minority communities. It concludes with findings and recommendations for improvement, highlighting the need for inventive tools to address the systematic discrimination against all citizens of Bosnia and Herzegovina in a minority position, regardless of their appurtenance. These steps are essential for ensuring that members of minority communities are no longer treated as second-class citizens in their country.

2. Consociation Democracy Model Failing

One would expect a country consisting of deep vertical cleavages similar to those found in Bosnia and Herzegovina to suffer permanent conflict and disorder. However, Arend Lijphart developed the model of consociation democracy or power sharing (Boogards 2000) in the 1960s in an attempt to explain political stability in countries with deep vertical cleavages. Consociation democracy is "government by elite cartel designed to turn a democracy with a fragmented political culture into a stable democracy" (Lijphart 1969, 216). To be successful, the political elites of a divided society must have the ability to accommodate the divergent interests and demands of the other subcultures and to transcend cleavages in order to avoid political fragmentation. According to Wippman, consociation democracy is the "only means by which members of ethnic groups can maintain their identities and still participate meaningfully in the life of larger societies" (Wippman 1998, 211). The model of consociation democracy thus respects the needs of each ethnic group, while providing a political framework for a functioning democracy. This model has been used to develop constitutional frameworks in a number of divided societies, including Bosnia and Herzegovina. In the development of consociation democracy four fundamental features have emerged, which are needed to ensure that these societies remain stable: a grand

coalition, segmental autonomy, proportionality and minority veto (Lijphart 1969, 211).

The constitutional framework of Bosnia and Herzegovina contains a number of elements which support the presence of a grand coalition. The Presidency of Bosnia and Herzegovina (Article V of the Constitution BiH, 1995) consists of a member of each constituent people who represent the majority ethnic group of the Entity from which he/she is elected.This means that that Bosniac and Croat members of the Presidency shall be elected from the Federation of Bosnia and Herzegovina and the Serb Member shall be elected from the Republika Srpska. The House of Peoples, the second chamber of the Parliamentary Assembly is composed along similar party lines. The Constitution BiH (Article IV) requires that the House of Peoples comprise of a total of fifteen members, with five members from each of the constituent peoples. Hence, such protection of the rights of the constituent peoples in Bosnia and Herzegovina is at the detriment of those citizens who fall under the category of Others, or those living in the so called wrong entity. For example, Serbs living in the Federation and Bosniacs or Croats in the Republika Srpska are not eligible to stand for these positions. In practice, Others are those persons of mixed parenthood, those not assimilating to ethnically predetermined categories and those from the smaller national minorities enumerated under the Law on National Minorities. The Constitution BiH provides no answer on how a person's ethnicity is determined; there is nothing to prevent a person from the Others category self-declaring as a member of one of the three constituent peoples in order to stand for election. Some have even chosen this kind of identity shopping, while some others have refused to employ this tactic for political reasons, arguing that they should be entitled to these rights without discrimination. Those who do not fall within one of the three constituent peoples may only be involved in the Grand Coalition in either the House of Representatives or the Constitutional Court, where membership is not predetermined by ethnicity or Entity of origin. This places restrictions on a large proportion of the population's ability to participate fully in political life and consequently in the grand coalition.

Regarding segmental autonomy, i.e., the ability of each segment of society to make decisions (Lijphart 1985, 4), the country's constitutional set up established an extreme form of such autonomy at the Entity level, where the rights of other Entity's population are largely ignored (Bieber 1999, 86). The focus of each Entity is to ensure that its own national vital interests are protected, with little to no regard for the interests of the other constituent peoples, through the use of the vital national interest veto.[3] Those belonging to the category of Others, including national minorities, have no decision-making powers at national level due to their exclusion from the House of Peoples of the state Parliament. This position is slightly improved with seven seats reserved for Others in the House of Peoples of the Federation and four seats in the Republika Srpska National

Assembly, though these seats have reduced competencies compared to the seats reserved for the constituent peoples. Thus, it is possible to suggest that Bosnia and Herzegovina only partially complies with the requirements of segmental autonomy under the consociation democracy model.

The principle of proportionality is a third feature of consociation democracy. The state is able to reduce any claims of bias towards one group of society by distributing positions in the public sector, authority positions and public funding proportionately between the different groups. In Bosnia and Herzegovina, proportionality is seen in civil service appointments, allocations of public funding and political representation, dividing these positions between the constituent peoples. This form of proportional representation does not guarantee all the minority groups represented as Others an equal distribution of positions and funding. Proportionality exists for the constituent peoples, which ensures representation of these three groups, at the expense of Others who continue to be a minority group largely excluded from political life.

The fourth and last feature according to Lijphart's model is the right of veto. The purpose of this is to provide minorities with a guarantee that they will not be outvoted by a majority when their vital interests are at stake. In the case of Bosnia and Herzegovina, the state-level Constitution BiH provides the vital interest veto power to both the Presidency and the House of Peoples. Scholars explain that the House of Peoples simply exists to "provide a veto power that each group of constituent people may invoke to strike down legislation deemed harmful to its interests" (Raulston 2012, 677). While it is undeniable that the House of Peoples is a forum in which the constituent peoples may exercise this right of veto, as the upper chamber of Parliament it is ultimately an advisory body. However, the national interest veto power has been used only a few times in the House of Peoples, but numerous times as an entity veto, predominantly by the members from Republika Srpska, to prevent the passage of key legislation deemed to be against their Entity, hence the majority Serb interest (Trnka et al. 2009). The difficulty created by the use of the veto in passing legislation supports the arguments put forward by Raulston. The veto power in Bosnia and Herzegovina demonstrates the use of consociation democracy in providing stability in the country. However, it is exploited and used to further narrow ethnic interests and has been formulated in such a way that it continues to exclude the category of Others from the protection provided by this power. Furthermore, the continued use of the veto power and its effect of preventing the development of essential legislation is having a serious impact upon the country's EU membership prospects.

All in all, the drafters of the Dayton Peace Agreement predicted that Bosnia and Herzegovina would not be able to sustain a consociation arrangement without international supervision. Therefore the role of the Office of the High Representative (OHR)was developed to ensure civilian implementation of the

agreement according to its Annex X (Dayton Peace Agreement 1995), including the use of executive powers to enact laws, appoint or remove civil positions or amend Entity Constitutions.[4] The involvement of the international community in Bosnia and Herzegovina has received divided support. The Republika Srpska opposes the international presence with executive powers, whereas in the Federation, predominantly the Bosniac community is much more in favour as it provides un-blocking mechanisms, used at the beginning of the international mandate much more than now (Banning 2014). Indeed, international involvement has been linked to some of the difficulties of the consociation model in Bosnia and Herzegovina (Idrizovic 2013, 19). On the one hand, consociation democracy has developed a quasi-stable political environment with ongoing ethnic tensions and battles between the three main constituent groups. On the other hand, it has exacerbated the minority rights situation in Bosnia, leading the European Court of Human Rights to pass judgements having a direct effect on the country's journey to the European Union as implementation of those judgments, i.e., changes to the Constitution BiH became the conditionality for advanced stages of EU accession (Bărbulescu & Troncota 2013). The continued presence of a highly discriminatory constitutional framework which excludes all those who do not associate with one of the three constituent peoples or who reside on the wrong territory has thus created difficulties on Bosnia and Herzegovina's path to EU membership. Furthermore, according to the European Court, strict consociation democracy could be justified as a temporary measure to aid in the development of a stable functioning country after the war. However, in Bosnia and Herzegovina, the constitutional framework is still based on an exclusivist power-sharing model twenty-one years later.

3. Minority Protection as Collateral Damage

To counterbalance this rigidity, additional international human and minority rights instruments became directly applicable in the domestic legal system by virtue of the Constitution of Bosnia and Herzegovina (Annex IV of the Dayton Peace Agreement). Thus, the treaties on national minorities, such as the 1992 European Charter for Regional or Minority Languages, or the 1994 Framework Convention for the Protection of National Minorities, are amongst those that even did not had to be formally ratified by the Parliamentary Assembly of Bosnia and Herzegovina. Consequently, the country has been obliged to invite the United Nations Commission on Human Rights, the OSCE, the United Nations High Commissioner for Human Rights, and other intergovernmental or regional human rights missions or organisations to monitor closely the human rights situation in Bosnia and Herzegovina through the establishment of local offices and the assignment of observers, rapporteurs, or other relevant persons on a permanent or mission-by-mission basis and to provide them with full and

effective facilitation, assistance and access. Due to these specific arrangements, Bosnia and Herzegovina has also implicitly converted non-binding minority rights instruments, such as the Lund Recommendations on advisory and consultative national minorities' bodies, into legally binding rules of domestic legislation.

In first place, in 2003 the Law on the Protection of Rights of Members belonging to National Minorities was adopted, which mandated the establishment at both state and entity level of Councils of National Minorities as advisory bodies. The state-level Council was eventually established in 2006, but became active only in 2009, while its replicas were established at the entity level, in 2007 in the Republika Srpska and in 2008 in the Federation of BiH. Regarding the latter, at the cantonal level, out of ten cantons, the operational council exist only in Sarajevo Canton. However, the implementation of national minority instruments adopted at state and entity levels remains generally weak, especially in the fields of culture, education and political participation, and is hampered by a lack of coordination among the authorities (Minority Rights Group International Briefing 2015).That is also true concerning the implementation of the provisions on the consultative mechanisms, while the national minority councils do not still effectively play their advisory role (Hodžić 2011).

In essence, the primary role of advisory bodies for national minorities is of a consultative nature: the basic aim is to enable participation of national minorities in the decision-making process, articulating and promoting the position and interests of the minorities when it comes to specific decisions of the legislature. Although not binding by definition, their recommendations increase the quality of democratic debate by including different perspectives. Formally, the views of advisory bodies have a stronger position compared to other similar actors in political life (e.g. NGOs), and the legislative bodies should seriously take into account their opinions. However, recent research (Čorni 2016) shows the contrary in practice insofar as the integration impact of the councils is hindered for a number of reasons:

- lack of logistical support (financing) to the national minority councils,
- internal problems in terms of their capacity, representativeness, legitimacy and operability,
- insufficient political mobilisation of national minorities,
- poor communication with the communities they represent,
- their views being ignored by decision-making structures,
- unsolved political relations and tensions between the constituent peoples in BiH,
- the politicisation of appointment procedures.

From the above analysis the advisory bodies, at those rare governmental levels where they were established, appear only as a frame without real and practical

content. At the moment, the national minority councils' capacity to ensure participation of national minorities in political life and their influence on the decision-making process remains insufficient. There is a lack of basic institutional structure support in which the consultative mechanism would completely realise their essential meaning and purpose. In general, the consultative mechanisms have had an insignificant impact on the practical, political and legislative levels within their mandated responsibilities. However, given that national minorities are generally not politically represented in the governmental institutions at central level, the national minority councils should be the most important mechanism for ensuring participation of the national minorities in decision-making processes. It can therefore be concluded that international standards on the effective participation of national minorities in public life, besides their direct application in the BIH constitutional and legal order, have not materialised in practice when it comes to the issue of advisory and consultative bodies. Accordingly, the next stage of the analysis will consider whether these standards become more effective regarding individual participation of persons belonging to a minority in public/political life.

Consequently, the analytical framework encompasses electoral and other civil and political rights of both national minorities in the sense of the above mentioned law on minorities and members of the three main constitutent peoples on territories where they are in a numerically inferior position. Although the pre-cited 2003 Law guarantees to national minorities the right of political participation at all levels of governance in BiH (state, entities, cantons, municipalities, Brčko District) in proportion to the results of the last census, in 2008 the Election Law was amended to reduce significantly the possibility of such participation in political life at a local level (Human Rights Centre 2008). In fact, since 2004 members of national minorities at the level of municipalities had *de iure* greater opportunity to participate in municipal councils as they could have at least one guaranteed seat in these bodies, provided that minorities make up 3 per cent of the total population of that municipality. For those participating in more than 3 per cent of the total population, two guaranteed seats were available (Law amending the Election Law of Bosnia and Herzegovina 2004, Art. 13. 14, Chapter 13A). However, since the Election Law was based on the 1991 census, that is prior to the war and to the ethnic reshaping of the country, a *de facto* difficulty was finding minorities that were relocated since the end of the 1992/95 war. In reality, the 1991 census did not reflect the actual demographic situation at municipal level. Instead of seeking another tool or mechanism for enabling actual participation of minorities, the legislator further restricted that right by amending the election law of 2008, which guarantees the right to political representation to a minority (one seat) only if the ratio of participation exceeds 3 per cent of the total local population (Law amending the Election Law of Bosnia and Herzegovina 2008, Art. 61). Yet, such a possibility exists in an

insignificant number of municipalities and it has even been reduced as a result of the 2013 population census. Thus, irrespective of the minimalistic guarantees in the legal framework in place, the effective participation of minorities in public life at local level was unable to materialise.

Considering this example, one might assume that the higher the level of authority (e.g., the state presidency, chambers of parliaments, Entity parliaments etc.) the more protection of minority rights is guaranteed. Nevertheless, the series of cases adjudicated by the European Court of Human Rights (ECtHR) since 2009 provides yet another negation of this hypothesis, as well as of the main research question. This is valid not only for national minorities in classic terms, i.e., those who do not declare themselves as constituent peoples but also – and this is a peculiarity of the BiH political reality – to constituent peoples who find themselves in a *de facto* minority. The cases of Sejdić and Finci, Zornic and Pilav (as adjudicated by the ECtHR in 2009, 2014 and 2016 respectively) showed there was discrimination against those belonging to minorities or constituent peoples but living on the so called wrong territory, i.e. in an Entity where the majority belonged to a different ethnic group, when it came to running for high office. In other words the Constitution makes it legally impossible for an office holder of given ethnicity to stand as candidate for the top executive position only on the basis of his place of residence. This concerns primarily the right to stand for elections for the state Presidency or House of Peoples, nominally reserved for constituent peoples who are resident in a given electoral unit, i.e. the respective Entity. However, unlike many other ECtHR judgments, which only compel states to repair the financial damage suffered by individuals for human rights violations, the restorative nature of the above-mentioned judgments amounts largely to the political will to amend the state Constitution and facilitate the substantive equality of all citizens on the entire territory. The political capital used to foster this will seemed to be amongst the highest ones: the implementation of the ruling has been included as the conditionality that was necessary for the Bosnia and Herzegovina's Stabilisation and Association Agreement (SAA) with the European Union to enter into force. Despite believing in the power of Europeanisation that proved to be a successful model of external socialisation in Central and Eastern Europe (Wade et al. 2011) and its expected impact on reinforcing the sense of identification of aspiring states with Europe (Risse 2010, Brljavac 2011), hence the faster implementation of reforms,the EU and Council of Europe could only acknowledge with "great disappointment" that the institutional and political leaders of Bosnia and Herzegovina missed the deadlines for implementing ajudgment which would be compliant with the European Convention on Human Rights (Council of Europe, 2012. Joint statement by Commissioner Füle and Secretary General Jagland on Bosnia and Herzegovina). The lack of substantive guidance from the European Union, the Court itself or the Venice Commission of the Council of Europe has resulted in

a number of disparate political party proposals for constitutional reform being put forward, though none have yet been agreed and implemented. It is obvious that reforms are required to enable the equal participation of all peoples in state-level institutions, let alone to reinvent strategies and models of participation at local level. However, from being a key pre-condition for advancing on the EU path, the minority rights protection, i.e., implementation of the Sejdic-Finci judgment, has been downgraded to a later phase conditionality, according to the new EU approach on BiH and initiated by Germany and the United Kingdom in 2015 (Djapo & Ridic 2015). Triggered by both the failure of Sejdic-Finci implementation talks and the violent demonstrations of February 2014 seeking more economic reforms, the shift in paradigm of EU conditionality from requiring serious political agreements to "low hanging fruit" of a social and economic nature (European Commission Progress Report on BiH 2014, 4) makes minority protection a hostage, or collateral damage of Brussels' shifting priorities. Thus, the EU Conditionality methodology based merely on compromise between a few leaders of the major BiH parties has shown its limits. Likesome previous attempts of constitutional reform under the US administration project of April Package 2006, or the joint EU/US initiative called the Butmir process in 2008 and 2009 (Bieber 2010), the requirement for adding more inclusiveness to the Dayton logic of ethno-territorial exclusivism, as stemming from the Strasbourg jurisprudence, could not be implemented only through the fostering of political deals. The major difference between these methods and constitutional follow-up of the Sejdic-Finci et al. case law is no longer a matter of political will but of enforcement of a clear international obligation of the state of Bosnia and Herzegovina. Accordingly, the state must proceed in this case as with any other international (contractual) obligations – within the framework of the constitution, laws and with respect to its own institutions. In other words, it is imperative that any future discussion is brought back to the parliament of the state, instead of attempts to change the rules of the game outside of the institutions. The ownership of reform should belong to domestic institutional, political, expert and other actors, while political leaders, as *de facto* representatives of political forces in the country, should be allowed through institutions to explain and defend their legitimate interests. Otherwise, the EU will continue hitting the wall of obstructionism of BiH's failure to comply with the European Convention on Human Rights and other obligations, which makes EU's leverage ineffective regarding implementation of its own Acquis.

However, in the course of EU accession an applicant country is expected to foster a spirit of tolerance towards its minorities and take appropriate measures to protect those who are subject to threats or acts of discrimination, hostility or violence. The situation in that regard in Bosnia and Herzegovina only confirms the extensive research work of Antonija Petričušić who argues that EU conditionality policy regarding protection of national minorities has been used

with parsimony, almost selectively, until the moment the EU faced the truth in the candidate/potential candidate country (Petričušić 2013). In Croatia, for instance, following the 2013 accession to the EU, respect for national minority protection standards worsened, specifically regarding the linguistic rights of the Serb minority in wider Vukovar region (Petričušić 2014).

As a result, laws and policies related to minority rights often simply remain unimplemented, which frequently leads to direct or indirect discrimination against minority communities. In Bosnia and Herzegovina, despite the efforts of the Constitutional Court of BiH to create collective equality among the three main groups throughout the country (Constitutional Court of Bosnia and Herzegovina 2000), even where they constitute a numerical minority they still continue to experience significant challenges in realising their rights. The following sections show that due to the high level of discrimination they live in segregation and often face difficulties in receiving an education that reflects specific aspects of their culture. Is it possible for the education system to cross over ethnic boundaries and promote reconciliation?

4. The Education System or Fear of the Other

The phenomena of the so called two schools under one roof in the Federation of BiH, and the use of the mother tongue in schools enclaved in minority municipalities in the Republika Srpska Entity reflect the above political and ethnic status-quo. In other words, each community considers itself superior on the territory it controls and the rare multi-ethnic areas appear as yet further collateral damage.

Concerning the management of the education system, while education in the Republika Srpska is largely centralised, the administration of the educational system in the Federation of BiH operates at several levels, including Federation, cantons, municipalities, and the individual schools themselves. The Constitution of the Federation of BiH states that "/ … / the cantons are exclusively responsible for developing education policy, including decisions concerning the regulation and provision of education as well as for developing and conducting cultural policy / … /" (Constitution of the Federation of BiH 1994, Article III/4 b,c). However, in Bosnia and Herzegovina the three main communities which opposed each other during the war twenty-five years ago are still struggling through fragile coexistence, thus children grow up in segregated schools. Moreover, due to the strong nexus between religion and ethnicity, it is not surprising that religion became an important tool of identification during and after the war, and school became a battlefield (Low-Beer 2001, Marusic 2011, 65). The examination of the current primary and secondary school systems provides an alarming insight into the current situation, with political inefficiencies, prevalent ethnic discrimination, and an unpromising future ahead, in particular for those in a *de facto* minority.

A clear case of the ongoing ethnic discrimination comes from the need to enable Croat and Bosniac children to have education in their respective languages in areas of mixed population, primarily in the two Cantons of the Federation of BiH (Central Bosnia and Herzegovina-Neretva). Thus, inside the same school buildings different spaces and curricula are assigned to students belonging to different constituent peoples. The project was conceived in past years as a temporary solution, mainly by international organisations, the OSCE in the lead, but it still persists today. In many such schools children, as well as their respective teachers, have no mutual contact. Students often arrive at school via different entrances (e.g. Mostar gymnasium) or they take separate breaks, and the teachers have separate meeting rooms; sometimes Croatian pupils attend classes in the morning and Bosniacs in the afternoon. In some more reformed schools, the classes are multi-ethnic, but when the time comes for national subjects such as geography, history, and language, the classroom is split up into entity-specific groups. It should also be underlined that this segregation system deeply affects not only students, but also teachers, as they are still appointed through ethnic criteria (Mujkic 2012, 54). An additional force that works in favour of division is the fear of assimilation. A UNICEF report showed that parents feel less threatened if their children attend mono-ethnic classes, and that this fear is especially present in areas where the system of two schools under one roof operates. Asked about the causes of this situation, one teacher replied:

> [T]here are political parties in government right now that wish to keep the divisions and what might be the ultimate reason I could not say. I can tell you my own experience, which is that these things will affect all children passing through this system of education, the one that is being implemented in this country. Of course, a normal human being cannot support segregation in schools, on any grounds. That is a very difficult situation that this school has been passing through since the end of the war. It is obvious that the politicians who represent us up there, and we have no pedagogic institute, it means that they are totally in favour of keeping this system of divided schools (UNICEF BiH 2009, 183).

Clearly, the dominant perception places the roots of the problem in the political system and party machinery, thus elegantly removing the responsibility for one's own actions to someone else.

As stated repeatedly by the European Commission,

> The continuing existence of divided schools in some Cantons of the BiH Federation and mono-ethnic schools across the country does not foster the development of an inclusive multi-cultural and tolerant society. *De facto* ethnic-based separation and discrimination in some public schools in the BiH Federation remain a serious concern. There needs to be more effort to make schools more inclusive and to address the continuing existence of two schools under one roof in the BiH Federation (European Commission, Bosnia and Herzegovina Progress Report 2013, 17).

The educational and school environment – together with the media and religion – was one of the first hotbeds in which opposing nationalist forces started the fight to control and manipulate public opinion, and to give shape to a feeling of "fear of others" (Slack & Doyon 2001). This has continued until today.

In this context, a lawsuit for violation of anti-discrimination law has been filed by the NGO Vaša Prava (Your Rights) from the city of Mostar. The Municipal Court of Mostar granted the suit and ordered in the first instance the Ministry of Education to "establish single, integrated, multi-cultural [schools], with a unified curriculum fully observing the children's right to education in the mother tongue" (Tolomelli 2015, 103). For organising the education system along ethnic lines, the Court found two schools in the Stolac and Čapljina municipalities (Herzegovina-Neretva Canton, FBiH) in violation of the law on prohibition of discrimination. Precisely in these two local communities, the Bosniac constituent people members are in a *de facto* minority position. The same can be said for Croats who are in a *de facto* minority position in Zenica or the Central Bosnia Canton and where such schools also exist. The implementation of the 2012 ruling, which was already enforceable at the time of the violation, is proving to be highly problematic and politically contentious. The plaintiff, the NGO Vaša Prava confirmed that, during discussions, the local authorities openly expressed their unwillingness to implement the ruling in the current political setting.[5] The verdict was overturned by a cantonal court in the second instance for procedural reasons, but then upheld again by the Federation's Supreme Court later in 2014 when it became final and binding. This judgment of the Supreme Court is considered to be a slap-in-the-face to nationalist politicians in Bosnia's southern region of Herzegovina, who have long resisted calls for integration. However, as indicated above, the political will necessary to remedy such a violation, enforce the judgment and restore human rights is still missing. Scholars argue that "without major changes in the education system, it will not be possible to re-introduce tolerance and acceptance in the present society" (Tolomelli 2015, 105).

The adoption of the comprehensive anti-discrimination law in 2009, on which the above court decisions were based, confirms again the main research hypothesis: although the legislation in force represents an important feature, albeit imperfect regarding the protection of minorities in BiH, its adoption is not enough for the removal of political, social, economic and cultural barriers currently preventing justice being served for members of minority communities.

Though the above judgment only applies to the Federation as the sole region over which the court has jurisdiction, school segregation exists in various forms across the country, whenever there is a *de facto* minority. For the last couple of years, Bosniac parents in the Serb-majority Republika Srpska have boycotted schools in the Srebrenica area. In this highly symbolic place for Bosniac returnees, parents were demanding that their children be taught separately according to an

explicitly national curriculum, requesting in addition that the mother tongue is named Bosnian (transl. bosanski) and not Bosniac (transl. bošnjački) i.e., the language of Bosniac people (transl. jezik bošnjačkog naroda), the latter being the official terminology used in the Constitution of Republika Srpska. In fact, according to Article 7 as amended and enacted by the executive decision of the High Representative, the official languages in Republika Srpska are: "the language of the Serb people, the language of the Bosniac people and the language of the Croat people" (Article 7 of the Constitution of Republika Srpska). Equally, several dozen children from Vrbanjci near Banja Luka in Republika Srpska did not start school on September 1 due to their parents' boycott of the school system which does not allow Bosniacs to have their own curriculum at the local school, which uses the Serbian-language teaching programme (Freedom House 2014, 147). Republika Srpska officials claim that the issue was being politicised, but parents from Konjevic Polje (Srebrenica area) protested that the Republika Srpska was not allowing Bosniac children to be taught under the Bosniac curriculum. They object to the fact that contrary to the relevant legislation of Republika Srpska (Law on Education), which guarantees any group representing more than 20 per cent of the local population the right to use its own language in education, the authorities have been constantly violating such a right by refusing to title the subject (mother tongue) using the name the minority population calls its own language (Balkaninsight 2016).

Thus the Bosniacs who reside in the above minority settlements in the Republika Srpska decided to stop sending their children to local schools until these are allowed to choose the Bosniac curriculum, which differs in a few subjects such as history and language. One of the political problems behind such a decision is that Republika Srpska officially does not recognise the term "Bosnian language", while the other Entity, the Federation of BiH, continues using the term Bosnian, Croatian and Serbian to denominate the official language. Moreover, the education system of Republika Srpska contains references in history and geography textbooks that are allegedly offensive to the non-dominant population. Accordingly, dozens of pupils from the Konjevic Polje primary school did not finish the last school year because of a dispute, but instead went to classes at an improvised school in the premises offered by the local Koranic school where they were given lessons by teachers from Sarajevo. Recently, the Constitutional Court of Bosnia and Herzegovina has been asked to review the constitutionality of the first sentence of Article 7(1) of the Constitution of the Republika Srpska, in the part reading: "the language of the Bosniac people" (Constitutional Court of BiH 2016). The applicant, inter alia, held that this provision is not in conformity with the Preamble of the Constitution of Bosnia and Herzegovina, i.e., with its principle of equality the constituent Bosniac people enjoys throughout the country. In addition, the applicant emphasised that the challenged provisions are in violation of the provisions of the European

Convention of Human Rights and other international instruments annexed to the BiH Constitution. However, the Court dismissed the request as ill-founded as it established that there was no violation of the Constitution of Bosnia and Herzegovina. It concluded that such terminology is a neutral provision which does not determine the name of the language, but contains the right of the Bosniac constituent people as well as other constituent peoples and Others, who have not declared themselves as such, to name the language they speak in their own way, which is in compliance with the Constitution of Bosnia and Herzegovina, and any different conduct in practice would lead to the violation not only of the Constitution of Bosnia and Herzegovina but also of the Constitution of the Republika Srpska (Constitutional Court of BiH 2016, Paragraph 62). The present article has demonstrated that such different conduct was indeed the practice on the ground, and consequently the parents of children in a *de facto* minority position boycotting the classes in Republika Srpska have filed criminal, civil and administrative suits against the authorities of the Republika Srpska, which ultimately may end up before the European Court of Human Rights. Interestingly, the Constitutional Court of Bosnia and Herzegovina concluded that the Constitution of Bosnia and Herzegovina does not stipulate in any way that the names of the languages spoken by the constituent peoples must be associated with the names of the constituent peoples (Constitutional Court BiH 2016, Paragraph 64). The Constitution of Bosnia and Herzegovina gives the right to the constituent peoples and Others to name the language they speak as they wish. The name of the language cannot depend upon linguistic rules because the constitutional right to the name of the language is independent from the content of the language, standards of the language etc.

Therefore, even though the principle of calling the language by using the name of the (constituent) people who speaks it was declared in conformity with the state Constitution, the very practice which is at stake was implicitly condemned by the Constitutional Court and is now subject to the legal suits mentioned above. Again, as in the case of *de facto* school segregation in the Federation of BiH and condemned by the Supreme Court of that Entity, the scope of court decisions in both cases seems limited by the non-existing political will for their implementation.

5. Conclusion

One cannot ignore that post-conflict normative solutions such as minimum assurance of minority participation in public life at local level or power sharing mechanisms, even if not perfect, have contributed to the re-emergence of cooperation and, to a certain degree to the normalisation of relations among the different ethnic communities across Bosnia and Herzegovina. However, this article has demonstrated that legal guarantees of minority rights means little for

inter-community reconciliation and reduction of social distance if policy makers believe that legislation should merely allow for the preservation of minority identities and assure minimal proportional participation. Underpinned by empirical research, the article has argued that in a fragile multi-ethnic scenario, the focus should be on increasing intercultural tolerance and acceptance, which can be achieved through a thorough implementation of the normative framework, periodically reviewed in accordance with the highest European standards. However, since this still is not the case in Bosnia and Herzegovina, the article concludes that the current domestic normative and institutional mechanisms are not yet sufficient to foster reconciliation and the systemic acceptance of tolerance.

There is a generally accepted explanation for this, which illustrates the fact that, despite the efforts undertaken through the European integration process, societal reconstruction has not yet occurred 22 years after the end of the war across the Western Balkans (Petričušić & Blondel 2012, 2). Small differences, which were previously of no significance in multi-ethnic Yugoslavia, and in Bosnia and Herzegovina in particular, are now used to politically, legally and socially distinguish the other. By first overcoming the physical divides, like the ones in schools, believing that small as well as big steps which reflect the perseverance and dedication of all actors can bring the needed changes, the local authorities as well as the international community missed the opportunity for confidence-building amongst constituent peoples first, and then towards classical national minorities. This is because the majority of the citizens of Bosnia and Herzegovina are locked in a struggle between existence as a genuine human being and as a loyal ethnic being. In the 2013 population census, citizens were even not allowed to declare themselves as Bosnian-Herzegovinians.[6] In fact, the logic of ethnic exclusivism has dehumanised the public and political space, making it unwelcoming for various minorities. The eruption of violence on the occasion of the latest local elections in October 2016 in Stolac, a town in the Herzegovina-Neretva Canton of the Federation of BiH and the subsequent interruption and recalling of elections is the clearest exemplification of that so called separate-but-equal logic.

A more coordinated, multi-layered action of diversity management at the societal and local level could be much more efficient way of overcoming the present situation. For instance, instead of maintaining measures of separation of pupils for the sake of security, schools should design activities, both curricular and extra-curricular, that would encourage interaction among them. For a start, all school trips, sports activities, theatre plays and celebration of graduation could be commonly organised, which will allow for more informal interaction and are not contrary to any constitutional or legal provision in force. From the human rights perspective current political and legal circumstances continue to hamper implementation of minority protection standards and do not foster

the development of an inclusive, multicultural, and tolerant society. Moreover, in general, reforms in Bosnia and Herzegovina are usually slow to take place, as politicians from different ethnicities struggle to achieve compromises. In a failed model of consociation democracy, this article has shown that even the court decisions are difficult to enforce, as a consequence of a conscious choice of opposing ethnic policies. Therefore the impact of forthcoming judgments, even at the level of the European Court of Human Rights, seems compromised. In this situation of ethnic divisions, prejudice, stereotyping and discrimination, this article argues that it is imperative to promote interaction and dialogue among the different communities, majorities and minorities to foster social cohesion. For instance, an educational system that respects the principles of multiculturalism and intercultural education, but where instruction also reflects the perspectives and identities of all constituent peoples and minorities would be preferable. Such a system would promote constructive interactions amongst students and teachers from different groups, while also enabling different groups to preserve their own culture and promoting greater knowledge of minority cultures among majority children.

However, regarding the prospect of EU membership, the European Union adheres to its policy that, from the perspective of political criteria, segregation or discrimination against minorities is not compatible with the European aspirations of Bosnia and Herzegovina. Despite using such a conditionality policy based on previous Europeanisation models, the EU has not managed, as demonstrated throughout the article, to create the necessary political momentum towards the substantive equality of all communities, including constituent peoples found in *de facto* minority position. Therefore, only through renewed and parallel efforts on internal reconciliation in Bosnia and Herzegovina, but also in other countries of the region, may a way out be found, before continuing to implement all the normative and institutional features of the so-called minority protection under international instruments, which alone do not suffice. Yet, this is a topic for another larger debate.

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Notes

[1] Data as per the Population Census 2013 and published in July 2016 indicate that 50.11 per cent of citizens declare themselves as Bosniacs, 30.78 per cent as Serbs, 15.43 per cent as Croats, 2.73 per cent as Others, 0.77 per cent as not declared and 0.18 per cent with no answer.

[2] According to the 2003 Law on Protection of National Minorities that is based on the previous 1991 census there are 17 minority groups, namely Albanians, Montenegrins, Czechs, Italians, Jews, Hungarians, Macedonians, Germans, Poles, Roma, Romanians, Russians, Russinians, Slovaks, Slovenians, Turks, Ukrainians and others who fulfil the legal criteria for declaring themselves a minority, i.e., expressed and distinguished from constituent peoples.

[3] Vital national interest (VNI) protection is a complicated constitutional procedure intended to prevent inequality between constituent peoples only (with the exclusion of Others). In reality, it is often misused by politicians to block the adoption of laws and appointments, and due to its narrow and inconsistent interpretation by the Councils for VNI – a sub-structure within Entity's Constitutional Courts, it rarely reaches the required consensus. Further details on this issue in K. Trnka et al. (2009, 93–94).

[4] Introduced by the Peace Implementation Council in December 1997 in Bonn (and referred as to: Bonn Powers), to overrule obstructive domestic politics delaying or blocking the implementation of the Dayton Peace Agreement.

[5] Author's interview with Emir Prcanovic, Director of Vaša Prava NGO, held on 15 December 2016.

[6] See categories listed in the census forms, cf. note 1.

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Political Representation of Ethnic Minorities and Socio-Demographic Groups in the Romanian Parliament

The paper explores the effects that different institutional mechanisms for legislative representation have on ethnic and social diversity in national legislatures. It uses an original data set on the Romanian parliament between 1990 and 2016 to examine representational outcomes generated by a combination of specific types of electoral mechanisms such as list proportional representation and reserved seats. The paper's findings highlight potential adverse effects that the use of communal representation mechanisms can have on the ethnic inclusiveness of main political parties. The findings also point to substantial differences in the social profile of representatives elected through different institutional channels.

Keywords: political representation, ethnic minorities, social profile.

Politično predstavništvo narodnih manjšin in sociodemografskih skupin v romunskem parlamentu

Članek obravnava učinke različnih institucionalnih mehanizmov pravne zastopanosti na etnično in družbeno raznolikost v državnih zakonodajah. Na osnovi podatkov o delovanju romunskega parlamenta v obdobju med 1990 in 2016 proučuje rezultate politične zastopanosti, povezane s kombinacijo specifičnih volilnih mehanizmov, kot so proporcionalna zastopanost na listah in rezervirani sedeži v predstavniških telesih. Avtorja v zaključku osvetlita potencialno negativne učinke, ki bi jih lahko imela raba mehanizmov skupnostne zastopanosti na etnično inkluzivnost glavnih političnih strank. Članek opozarja tudi na znatne razlike v socialnih profilih predstavnikov, izvoljenih na osnovi različnih institucionalnih kanalov.

Ključne besede: *politična zastopanost, narodne manjšine, socialni profil.*

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1. Introduction

Ethnic and socio-demographic representation are important issues that must be addressed by every democracy that cares about the wellbeing of its population, as well as political fairness. There are multiple strategies for ensuring political representation, but one of the most important challenges is to identify the most efficient electoral mechanisms. Romania is a multiethnic society that combines multiple channels of access in the national representative body and so has become an interesting case study for researchers in social studies that want to analyze and understand the political representation of ethnic and social groups.

In order to ensure that the electoral mechanisms encourage the political representation of ethnic minorities, the main focus of this paper will be legislative representation in Romania. Alternative institutional arrangements that aim to secure a minority presence in legislative institutions have already been discussed extensively in the academic literature (Reilly 2001, Norris 2007, Diamond & Plattner 2006, Protysk & Matichescu 2010).

Some scholars believe that each communal group should have its own political representation guaranteed by the state, on a proportional basis (Lijphart 1968). Others argue that institutions should promote political parties that represent the common interests of the state's citizens, dissipating cultural differences (Horowitz 1985, Reilly 2001). The effect that each electoral system has on ethnic representation is an issue that has been addressed by researchers that argue in favor of proportional representation (PR) when it comes to fair ethnic representation, even though there is little empirical evidence to show that PR is more effective than Single-Member District (SMD) systems when it comes to the issue at hand (Moser 2008).

Other scholars argue that the main role of provisions is to guarantee the survival of ethnic, cultural, linguistic and religious minorities, to provide each individual with the right to participate in their own culture without disadvantage or prejudice, and to ensure that each member of any minority can use their native language in public or in private (King & Marian 2012). Reserved seat (RS) electoral mechanisms extend the notion of positive rights to the political arena, providing affirmative action in order to provide minority voice, access and political representation (King & Marian 2012).

The history of post-communist Romania makes the country interesting for researchers because it is an ethnically plural state (Reynolds et al. 2005) In this context, because we are dealing with a new concept for transitional democracies, there are few evidence-based studies that outline the effectiveness of institutional arrangements. This issue makes it more difficult for even those politicians that pursue an equal representation of all ethnic groups, because there is little foundation to build upon. Nevertheless, a recent analysis of reserved seat provisions (a targeted electoral mechanism) illustrates that the issue of reserved

seats is very common and yet simultaneously, an insufficiently studied aspect of electoral mechanisms (Reynolds 2005).

When analyzing ethnic representation, Romania is an interesting case, because its electoral rules provide minorities with the opportunity to reach parliament through different institutional channels. Encouragement of ethnic representation in the parliament began in the 1990s, which represents the start of the transition to democracy for Romania. Starting with the aforementioned period, Romania's electoral system has combined closed-list PR with special provisions for minority reserved seats. This makes closed-list proportional representation the key feature of the electoral system (Popescu 2002, Roper 2004, Crowther 2004). The PR system, along with the RS provisions, were implemented during Romania's transition to democracy, in order to ensure fair representation for the country's multiple ethnic groups. The group that benefited the most from the RS provisions, beginning in the 1990s, was the Hungarians (Birnir 2004, 2007).

The first five electoral elections held in Romania were characterized by the stability of the closed-list proportional representation system (Popescu 2002). The benefits of this stability were that parties had time to develop and adjust their strategies and that voters had time to analyze the effect of their choices and make better judgements when it came to voting. The system was changed in 2008 and 2012, being replaced by a mixed electoral system.

The present paper examines the impact that electoral mechanism had throughout the 1990–2016 period on the political representation of minorities in the national legislature. We also consider if political parties run by the majority ethnic population are inclined to recruit minority candidates. Moreover, we shall attempt to identify a *modus operandi* of minority politicians that pursue electoral office. The latter is important because there are two ways a minority politician can reach parliament: being a member of a mainstream political party or profiting from the RS provisions as part of a minority organization.

This paper proceeds by providing a descriptive analysis of the impact of Romania's electoral rules on ethnic representation during the 1990–2012 election campaigns. In doing so, we address the fairness of group-defined minority issues from a liberal-democratic standpoint and examine why that produced representational outcomes. The main focus of this paper is to analyze the mechanisms behind minority recruitment, with an emphasis on the ethnic Hungarian party. The paper concludes by drawing some lessons from the Romanian experience of combining PR and reserved seats provisions for future minority representation research.

The reserved seat provisions, intended to benefit minorities numerically smaller than the Hungarians, were first introduced for the 1990 parliamentary elections. Since then, the number of reserved seats has been extended to cover all minorities on a 'one ethnic group-one reserved seat' basis. All these features

of the Romanian electoral system could be conceptualized as providing three distinct routes for entering the parliament for ethnic minorities. Firstly, minority group members could be included in the winning portion of electoral lists of mainstream political parties; secondly, they could enter on the ticket of the ethnic Hungarian party, which has been consistently represented in the Romanian parliament; or, thirdly, they can become members of parliament by winning elections to one of the specially reserved seats for smaller minorities.

This paper compares how different institutional mechanisms for legislative representation affect the ethnic and social composition of the national legislature. It provides a systematic analysis of how groups of parliamentary members defined by the type of electoral mechanism that enabled their entrance into parliament vary on key indicators of social inclusiveness. The paper thus generates a number of insights into both majority and minority parties' recruitment preferences and practices. With rare exceptions (Moser 2008, Edinger & Kuklys 2007), these issues remain largely overlooked in the otherwise rich literature on minority issues in party politics in the post-communist region (Barany & Moser 2005, Birnir 2007, Ishiyama & Breuning 1998, Stein 2000, Bugajski 1995). The paper helps to start filling this gap by combining analysis of the ethnic and social backgrounds of members of parliament.

The final section of the paper examines how inclusive the groups of deputies elected through different institutional channels are in terms of gender, age and education level. The paper concludes by summarizing what the Romanian data on ethnic and social representation tells us about the effects of alternative electoral mechanisms on social inclusion, as well as what further evidence is needed to corroborate or refute hypotheses generated by studying the Romanian experience.

2. Data and Measurement

The social and political background data were collected for all the deputies elected to the Romanian parliament, including the Senate and Chamber of Deputies, over the past seven consecutive parliamentary terms during the 1990–2012 period. The dataset includes observations both on deputies that served a full parliamentary term and those that served part of the term. The dataset thus includes all deputies that entered the parliament through the 2012–2016 period. The dataset has 3,815 observations, where the unit of observation is a deputy/parliamentary term.

The coding of data was based primarily on information that was self-reported by the deputies and published in the official publications of the Romanian parliament.[1] These data were supplemented by information from a scholarly work (Ștefan 2004, Protysk & Matichescu 2010) and other published sources

produced by a number of corporate and non-governmental organizations (Rompres 1994, Asociatia Pro Democrația 2006). The information on the ethnic affiliation of deputies was compiled in cooperation with Romanian institutions specializing in minority issues, whose experts were recruited to help ensure the accuracy of ethnic affiliation data.[2] While the coding of demographic variables such as age and gender is self-explanatory, education and other social variables can be more difficult to operationalize. The rationale for coding decisions made with respect to the latter variables is discussed in the text when the data on these variables is presented.

3. Proportionality of Ethnic Representation

In Romania, minorities are successfully assured representation in parliament. Analyzing the data from all parliamentary terms from 1990 to 2012 inclusive, in the lower and upper chambers of the parliament, ethnic minorities have significant representation. Our data shows an interesting and important finding – that most of the minorities are overrepresented in the legislative body. Table 1 shows, in the first column, the name of all of the minority groups represented in parliament, with column two showing the populations of each ethnic group according to the 2011 census. The third column indicates the percentage of MPs from each ethnic background, and is supplemented in column four by the number of MPs from each ethnicity (from all seven parliamentary terms during the 1990–2012 period). The last column represents the score for the proportionality index which is computed by dividing the legislative share by population share in 2011. This provides a single summary figure where 1.0 symbolizes perfect proportional representation, more than 1.0 designates a degree of over-representation and less than 1.0 indicates under-representation.[3]

As can be seen from Table 1, the majority group, those who are ethnically Romanian, are slightly overrepresented in the Romanian parliament with an index of 1.05. Although data from previous research shows that in the deputies' chamber ethnic Romanians are slightly under-represented with an index of representation at 0.98, (Protysk & Matichescu 2010) our analysis shows that for the entire parliament body, the majority group has a marginal overrepresentation. Among the ethnic groups present in Romanian parliament, the Ukrainian and the Roma ethnics group are the most under-represented. The Ukrainian ethnic group is slightly under-represented in parliament with an index of proportionality of representation of 0.96. The Roma ethnic group is the least represented, with index of only 0.1. This issue has received considerable attention in literature that deals with particular challenges this minority group faces in terms of problems with collective action and social stigmatization (Barany 2004, Vermeersch 2006).

Table 1. Ethnic Background of Romanian Legislators, 1990-2016

Ethnicity	Population Count (N) 2011	Population Share (%) 2011	Legislative Share (%) 2016	Legislative Frequency Count (N) 2016	Proportionaliy of Representation Index 2016
Romanian	16,792,868	83.457	88	3,357	1.05
Hungarian	1,227,623	6.101	7.37	281	1.21
Roma	621,573	3.089	0.31	12(7)	0.10
Ukrainian	50,920	0.253	0.24	9(8*)	0.95
German	36,042	0.179	0.47	18(8*)	2.63
Lipovan Russian	23,487	0.117	0.18	7(7)	1.54
Turk	27,698	0.138	0.21	8(6)	1.52
Tatar	20,282	0.101	0.21	8(8)	2.08
Serb	18,076	0.090	0.18	7(7)	2.00
Czech and Slovak	16,131	0.080	0.18	7(7)	2.25
Bulgarian	7,336	0.036	0.21	8(8*)	5.83
Croat	5,408	0.027	0.10	4(4)	3.70
Greek	3,668	0.018	0.21	8(8*)	11.67
Jewish	3,271	0.016	0.79	30(7)	49.38
Italian	3,203	0.016	0.18	7(6)	11.25
Polish	2,543	0.013	0.21	8(8*)	16.15
Armenian	1,361	0.007	0.29	11(7)	41.43
Macedonian	1,264	0.006	0.42	16(4)	66.86
Albanian	545	0.002	0.13	5(5)	47.99
Ruthenian	262	0.001	0.10	4(4)	76.80
Total		93.75	100	3,815	

Sources: Population data from National census (2011), Authors' calculation.

[a] Numbers in parentheses indicate how many deputies of a given ethnic background were elected through the reserved seats provisions.

[b] * indicates that two deputies served consecutively in the same reserved seat during a single parliamentary term: 1996-00 – Bulgarian, German minorities reserved seats; 2000-04 – Polish minority; 2004-08 – Ukrainian and Greek.

Reserved seats in the lower chambers of parliament, assure the success of legislative representation of minorities. In Table 1, the numbers in parenthesis from the Legislative Frequency Count (N) 2016 column indicate how many ethnic groups, with the exception of Hungarians, (who are not included because they have their own party and a significant population share) are elected through reserved seats procedure. As a result, seven out of twelve Roma were elected through reserved seats, eight out of nine Ukrainians were elected through this procedure, half of the German representatives, all Lipovan Russians (7 out of 7)

and so on. The information provided in the legislative shares and frequency columns of the table somewhat inflates the legislative share of some ethnic groups, because it includes in the count both the MPs that entered the parliament at the beginning of the term and those who came later in the term as substitutes for parliamentary members who resigned or died. These overestimations – they are indicated in the case of reserved seats deputies with an asterisk sign (*) – have only a minor effect on the overall picture of ethnic distribution in parliament, presented in Table 1.

Since the start of the post communist transition, Romanian electoral law contains liberal provisions for minority groups to gain legislative representation. The 1990 law on the organization of elections granted one seat in the lower chamber of parliament for each minority group that failed to obtain representation through the regular electoral procedure. Non-governmental organizations of ethnic minorities can participate in elections and can send their representative to parliament provided they receive at least 5 per cent of the average number of votes needed for the election of one deputy. Since 2004 the percentage was raised to 10 per cent of the average number of votes for the election of one deputy (Popescu 2002, Alionescu 2004). Although the electoral rules changed in 2008 from a proportional representation system to a mixed system where candidates run in single-member districts and are elected either by obtaining an absolute majority of votes or through mandated allocation designed to ensure proportional representation at the national and county levels (OSCE/ODIHR 2012,), no change was carried out on terms of ethnic minority representation. Each ethnic minority group continues to have a reserved seat in the Chamber of Deputies.

4. Minority Inclusion in Political Parties

Candidate recruitment and selection are complex issues that receive a considerable amount of attention in the literature (Hazan & Rahat 2005, Norris 2005). The presence of minorities in the winning portions of the electoral lists of the main political parties or nominated as candidates in a single member district is a strong indicator of willingness to recruit ethnic minority representatives. In the case of the closed-list PR electoral system, which was in place in Romania from 1990 until 2008 and even after (between 2008 and 2012 under a mixed representation system), the party leadership exercises considerable power over who is put on the list or who is nominated as a candidate in a single member district (Ștefan 2004).

To evaluate the level of inclusiveness of minorities in the party list, we provide evidence of how institutional channels contribute to the election of ethnic minorities to parliament. We distinguish between the three aforementioned channels: Romanian party seats, reserved seats and seats within the minority

party (UDMR). The UDMR, as previously mentioned, is the main party of ethnic Hungarians in Romania and identifies as an exclusive Hungarian minority group (Birnir 2007, Shafir 2000, Jenne 2007). The label Romanian party seats is used to distinguish clearly between the other kinds of seats: Reserved Seats (minorities other than Hungarian) and Minority Party, which is the UDMR. Each of the MPs for all seven parliamentary terms is found in only one out of the three categories described below, in Table 2.

Table 2: Ethnic Background of Romanian Legislators, by Type of Legislative Seat, 1990–2016

		Type of seat			
		Romanian Party Seats	Reserved Seats	Minority Party (UDMR)	Total
Ethnicity	Romanian	97.81%	0%	0%	88.1%
		(3,357)	(0)	(0)	(3,361)
	Hungarian	0.5%	0%	100%	7.36%
		(17)	(0)	(264)	(281)
	Roma	0.15%	5.88%	0%	0.31%
		(5)	(7)	(0)	(12)
	Germans	0.23%	6.72%	0%	0.42%
		(8)	(8)	(0)	(16)
	Other	1.31%	87.39%	0%	3.9%
		(45)	(104)	(0)	(149)
	Total	100%	100%	100%	100%
	(N)	(3,432)	(119)	(264)	(3,815)

Source: Authors' calculations.

The data in Table 2 indicates that Romanian parties rarely nominate winning candidates from non-Romanian ethnic backgrounds. It can be observed from the first column of the table that about 2 percent of MPs from regular seats (Romanian Party Seats) came from other ethnic backgrounds than Romanian, such as Hungarian, German, Roma and so on.

Seventy-five minority deputies from the Romanian party seats column of Table 2 were distributed fairly equally among seven parliamentary terms, which indicates minor variations between legislatures in terms of minority recruiting. Nor has there been significant variation in terms of minority recruitment between parties of different ideological orientation. While the comparative literature's expectation is that left parties would be more minority friendly, the Romanian data does not match this expectation, which can be partly attributed to the nationalist affinities of the post-communist left in Romania (Pop-Eleches 1998).

Nineteen MPs, out of seventy-five minority legislators, which is the largest subset of minority MPs belonging to the same party, come from the main non-successor of the communist party, the National Liberal Party (PNL). The second largest subset of MPs with an ethnic minority background, come from the main communist successor, the Social Democratic Party (PSD)[4], which has sixteen MPs with different ethnic backgrounds than Romanian. Yet, given that the members of parliament from the PSD (PDSR) constitute the largest group in parliament numerically (1,136 out of 3,815 members of parliament in our dataset), the share of minority deputies is only about 1.4 per cent (16 out of 1,136). In the case of the National Liberal Party (PNL) and its main political splinters (PAC (Civic Alliance Party) and PNL 93) (545 out of 3,815 members of parliament in our dataset), the share of minority deputies is about 3.5 percent (19 out of 545 legislators). Based on this data, we can assume that with the exception of the PNL, whose situation necessitates more specific research, Romanian parties are veritable mono-ethnic organizations.

Similarly, as the third column in Table 2 indicates, none of the 264 UDMR deputies or senators belong to minority ethnic groups other than the Hungarian ethnic group. This suggests that the party chooses not to campaign in support of other minority groups. Overall, the data on the ethnic composition of the UDMR's faction over two decades of the party's presence in the legislature indicates no attempts on the part of the party to break out of its status as a strict mono-ethnic organization.

As the data from Table 2 shows, the most efficient channel in recruiting ethnic minority representatives to the Romanian parliament is the Reserved Seats provision. Based on that channel, 119 MPs that officially represent ethnic minority groups were elected to the parliament. Given that the costs of maintaining reserved seats provisions entail only a small degree of the ethnic majority's underrepresentation in parliament, while at the same time assuring a higher number of entries for ethnic minorities representatives to the legislative body, the likelihood of long-term viability of these provisions is quite high (Kelley 2004).

5. Socio-Demographic Representation (Gender, Age, Education)

Comparatively, the Romanian parliament does relatively badly of gender parity: the percentage of women members is very low. This is despite the presence of some institutional and structural factors consistently associated with higher levels of female representation, such as a PR electoral system (with medium district magnitude), welfare state socialism, and leftist parties in parliament (Siaroff 2000, Rule 1987, Shugart 1994). Yet in the case of Romania, these underlying factors have not been translated into gender-related affirmative action

policies that are often the most immediate cause of high female representation in parliament. Romania's electoral laws do not have any gender related provisions and its political parties have not committed themselves to the internal regulation of these provisions through the use of gender quotas in their parliamentary lists.

Table 3a. Gender of Romanian Legislators, by Type of Legislative Seat

	Romanian Party Seats	Reserved Seats	Minority Party (UDMR)	Total
Male	91.52%	90.76%	97.73%	91.93%
Female	8.48%	9.24%	2.27%	8.07%
Total	100%	100%	100%	100%
(N)	(3,432)	(119)	(264)	(3,815)

Source: Authors' calculation.

Table 3a indicates that the Hungarian ethnic minority party, the UDMR, scores the worst in terms of gender inclusion, resulting in only 2.27 per cent women. In addition, only 8.07 per cent of the members that served in the Romanian parliament since 1990 have been women. The share of women in the group of UDMR members of parliament is only 2.27 per cent, compared to 9.24 per cent in case of the reserved seats for minorities other than Hungarian and 8.48 per cent in the case of Romanian party seats. As the chi-square test results provided at the bottom of the table indicate, gender share differences are statistically significant both when minority party deputies are compared with the deputies from the other parliamentary parties and when minority party deputies are compared with reserved seat deputies.

Minority party gender exclusiveness could be a product of the ethnic type of voter linkage that the party cultivates. A substantial amount of recent research points to the relative stability of electoral support enjoyed by minority parties and to their ability to survive performance failures without losing the support of their ethnically defined electorate (Birnir 2007, Alonso 2007, Chandra 2004). The ethnic nature of a minority party's appeal to the voters might allow the party not only to survive bad policy performance, but also to ignore social inclusion requirements to a substantially larger extent than other parties in the political system can afford to. If minority parties are forgiven by their voters for their policy failures on issues such as the economy or social welfare, than minority parties can also be expected to have an easier ride in terms of voter dissatisfaction with the lack of social inclusivity within the party.

An ethnic minority party's relatively high level of confidence in the loyalty of its voters can thus be seen as an important factor in party decisions with regard to candidate selection. This confidence weakens the incentives for the party to be more gender inclusive. Given the demographic size of the ethnic Hungarian

community, the electoral rules and the structure of party competition permit the existence of only one electorally successful ethnic Hungarian party. An ethnic Hungarian voter, who prefers to vote for an ethnic party but dislikes the UDMR's economic policies or recruitment decisions, faces the vote-wasting dilemma in supporting smaller Hungarian parties. This points to the problems regarding the supply of political alternatives for voters, rather than to the lack of societal demand for more inclusive representation. The recent increase in public opinion polls of the popularity of another ethnic Hungarian party, the Hungarian Civic Party (HCP), can serve as one indicator of ethnic Hungarian voters' growing dissatisfaction with the incumbent minority party (Caluser 2008).

The share of female deputies was the highest in the reserved seat category. The relative success of women in these races might be attributed to their competitive advantages in projecting competence and authority on the types of issues that are salient in the reserved seat segment of the electoral competition. The reserved seats competition tends to revolve around the cultural needs of territorially dispersed communities and the minority organizations' ability to ensure the minority group's symbolic visibility on the national stage. Typical educational and occupational backgrounds that women acquire tend to make them more competitive in winning races defined by these issues, rather than by competence in bringing some tangible and, usually, economically defined benefits to territorially concentrated communities. The prospect of being successful therefore allows women to win the minority organizations' nomination in the first place.

Table 3b: Age Interval of Romanian Legislators, 1990–2016

	Type of Seat			
	Romanian Party Seats	Reserved Seats	Minority Party (UDMR)	Total
34 years or less	7.72%	8.4%	12.69%	8.09%
Between 35 and 54 years	64.66%	52.94%	63.85%	64.24%
55 years or older	27.62%	38.66%	23.46%	27.68%
Total	100%	100%	100%	100%
(N)	(3,393)	(119)	(260)	(3,772)

Source: Authors' calculation.

The pattern of gender differences amongst the minority parties, and specifically the gender exclusiveness of minority party representation, is not replicated in the distribution of another important demographic variable, age. The summary measure of age distribution points to moderate differences amongst the three different types of seat categories: the median age varies between 48 years for the Hungarian minority party (UDMR), 49 for the Romanian parties' seats, and 51

for the reserved seats. Age is classified into three categories – younger deputies (34 years or less), middle-aged (35–54 years) and older (55 years or older). As can be seen from Table 3b, a majority of almost 64 per cent of MPs from all three types of seats, belongs to the middle age category. The UDMR, however, has a much higher share of young legislators: about 12.79 per cent, compared to 7.92 per cent for the Romanian party seats and 8.47 per cent for the reserved seats. Close examination of data reveals that the reason for a higher share of younger MPs in the minority party cannot be attributed to the effects of many young deputies entering parliament at the start of transition (when the UDMR was just being formed) and then retaining the seat due to the higher incumbency rate for minority party deputies. In fact, the UDMR continued to select candidates from the younger cohort to represent the party in the parliament throughout all the subsequent parliamentary terms included into this study. The observed differences in the minority party's willingness to include women and young people into the winning portion of the electoral list might be attributed to the different weight that youth and women's organizations play in the party's internal politics.

There are also substantial differences among MP groups on such paramount social characteristics as education level. As in other European parliaments, university-trained politicians have taken over parliamentary representation in Romania. As can be seen from Table 4, almost all (98.1 per cent) of MPs are at least bachelor-level university graduates. In addition, a significant proportion of MPs hold doctoral degrees. This is a very high percentage in comparison to most European parliaments, where, according to a recent study, the share of deputies with a university education varied during the most recent time period between 65 and 85 per cent (Gaxie & Godmer 2007).

Table 3c: Educational Level of Romanian Legislators, 1990–2016

	Type of Seat			
	Romanian Party Seats	Reserved Seats	Minority Party (UDMR)	Total
Secondary	1.95%	3.39%	0.8%	1.92%
Higher education	69.28%	66.10%	83.6%	70.16%
Ph.D.	28.77%	30.51%	15.6%	27.92%
Total	100%	100%	100%	100%
(N)	(3,285)	(118)	(250)	(3,653)

Source: Authors' calculation.

[a] The table reports education level distribution for non-missing data. The percentage of missing data is 4.2 per cent.

Table 4 compares the levels of education achieved by the deputies and senators with respect to the seat type to which they are elected. According to the data, the highest proportion of representatives with higher education is found in the UDMR, with 83.6 per cent of its members.

The table distinguishes between three educational levels. In each of the three types of seats, the great majority has higher education, which consists of a bachelor or master's degree. The most important difference between the groups is the share of doctoral degrees, which range from 15.6 per cent in the UDMR, to 30.51 per cent in the case of other minorities.

The lower percentage of doctorates in the Hungarian minority party (UDMR) in comparison to both the reserved seats legislators and those from ethnically Romanian parties in parliament is an indicator of the criteria of selection of candidates by the leadership of the respective party. Therefore we can deduce that, when choosing candidates for parliamentary representation, the leadership of the UDMR might prefer selecting candidates with political experience rather than those with a doctoral degree. This finding is consistent with the earlier reported data on higher levels of professionalization in minority party representation as measured by the incumbency rate. The low numbers of doctorates in the party does not, however, assume that education level is insignificant for a career in a minority party. Having a higher education, as the literature suggests, is increasingly perceived as a type of informal requirement one needs to qualify to serve as a party representative in the Romanian parliament. The virtual absence of representatives with non-university education in the roster of the UDMR's deputies suggests that the party's behaviour conforms to this requirement.

The share of reserved seat deputies with a Ph.D. is 30.51 per cent, which puts this group on the same level as deputies from parliaments with the highest reported shares of Ph.D.s (Gaxie & Godmer 2007). The proposition that the reserved seats competition favours candidates whose background helps to project competence on issues related to the cultural needs of communities is also supported by the data on the type of education that deputies receive. 37.8 per cent of reserved seat deputies had a humanities/social science education, with the same percentage as those with exact/natural sciences, as compared to 17.0 per cent for Romanian party members of parliament and 22.7 per cent for the UDMR minority party. Although for all three groups, the main category of education type distribution was science, the high share of legislators with a humanities/social science educational background in case of reserved seats points to important social differences in the composition of the reserved seats deputy group.

6. Conclusion

The main purpose of this paper is to offer a systematic analysis of how groups of members of parliament behave depending on important indicators of social inclusiveness and with respect to electoral mechanisms. It examines how groups of MPs vary with respect to ethnic composition, gender and age characteristics or educational background. The results suggest a set of rules for minorities that have to be complied with in order for these minorities to be included in party lists for electoral competitions.

After 1990, in order to ensure that minorities, regardless of their share of the national population, are represented in parliament, the electoral law introduced several provisions that facilitated this. In the absence of these provisions, minority representation would be improbable. If the aim of the drafters of the reserved seats provision was to satisfy minority groups' needs for a public and legislative presence, then the authors conclude that they have accomplished their aim. The popularity of reserved seats has increased among other nations, as well. For this particular reason, the authors advise that further research is necessary on this topic in order to understand both electoral competition and the legislative behaviour of reserved seats representatives. This research is needed to evaluate the effectiveness of these provisions in promoting the representation of minorities in public office, and to monitor the performance of these legislative provisions in ensuring the accurate representation of minority groups.

According to our findings, the reserved seats provision may be a contributing factor to the lack of ethnic minorities present in Romanian political parties. From this study, the Romanian political parties can be seen as mono-ethnic organizations. Although this paper provides some evidence that the mono-ethnicity of political parties results in decreased interest in recruiting minorities, further research on parties' legislative behaviour is needed to substantiate this claim. The aim of this research is to provide an answer as to why minorities are represented through the reserved seats rather than main political parties.

Another aim of this paper was to study the mechanisms regulating the political representation of demographically large minority groups. Electoral regulations might encourage ethnic representations by trading-off other social characteristics. From our analysis, we conclude that the minority party the UDMR was the least inclusive of other minorities, compared to the other two types of parties represented in parliament (Romanian parties and reserved seats).

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Notes

[1] Official parliamentary data was accessed from Camera deputatilor, *Structurile altor legislature.*

[2] Experts represented the following institutions: Centrul de Resurse pentru Diversitate Etnoculturala/Ethnocultural Diversity Resource Center, Cluj, Romania; Liga Pro Europa/ Pro Europe League, Târgu Mureş, Romania**.**

[3] Political support for maintaining these provisions is also based on the perception that reserved seats signal a continuing commitment to ethnic minority inclusion, a normatively important issue in the European context (Kelley 2004).

[4] The party has changed its name several times throughout the post-communist period.

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Dr. Mitja Žagar, jurist and political scientist, is a Research Councillor at the Institute for Ethnic Studies, the director of which he was between 1998-2007. He is Full Professor (law, political science and ethnic studies) at the Universities of Ljubljana and Primorska/Littoral and has been fellow, collaborator and guest lecturer at research and higher education institutions in Australia, Austria, Bosnia-Herzegovina, Canada, Croatia, Germany, Hungary, Italy, Macedonia, New Zealand, Romania, South Africa, UK and USA. His work focuses on human rights, protection of minorities, international law, comparative constitutional law, comparative politics and government, transformation(s) and transition, democratic reforms, democratization, institution building and governance, federalism, citizenship, civic education (education for active democratic citizenship), ethnic relations, diversity management, prevention, management and resolution of crises and conflicts, migrations, inclusion and integration in Europe and globally. As an expert, he has been working with several international and national organizations and institutions. He was member of the Special Delegation of Council of Europe Advisors on Minorities (1999-2002), head of the national team for human rights and minorities at the Ministry of Foreign Affairs of the Republic of Slovenia, as well as coordinator of the Task Force 1 on Human Rights and Minorities of the Stability Pact for South Eastern Europe (2001-2004).

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Drino Galičić is a PhD graduate in Diversity Management and Governance from the University of Graz. His field of research is democratization and European integration of the Western Balkan States with complex administrative and ethnic structure. More specifically, he looks at the use of EU Conditionality in the area of the Rule of Law, Human and

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Drino Galičić je na univerzi v Gradcu doktoriral iz upravljanja z različnostjo. Raziskuje demokratizacijo in evropske integracijske procese v državah zahodnega Balkana, ki imajo zapleteno upravno in etnično strukturo. Natančneje se ukvarja s prenosom evropske zakonodaje na področju prava, človekovih in manjšinskih pravic, in v okviru 23. in 24. poglavja tudi s pripravami na pogajanja o pridružitvi zahodnega Balkana in Turčije Evropski Uniji. Poklicno že 15 let deluje kot pravni svetovalec v nekaterih večjih mednarodnih organizacijah (Svet Evrope, OVSE, OHR/EUSR, UNDP in EC). Trenutno je član delegacije EU in njen posebni predstavnik za Bosno in Hercegovino, zadolžen za pravne reforme in nadzor nad sodnimi procesi, povezanimi z vojnimi zločini. Kot sodelavec je udeležen tudi pri programih Evropske akademije za uporabne raziskave in izobraževanje, ki ima sedež v Sarajevu.

Marius Lupşa Matichescu

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Marius Lupşa Matichescu je leta 2011 doktoriral na Oddelku za sociologijo Univerze Paul Valery v Montpellieru, trenutno pa predava na Oddelku za sociologijo Univerze v Temišvarju (Romunija). Njegovi glavni področji raziskovanja sta socialna integracija in politično predstavništvo priseljencev in manjšin. Objavil je številne članke v mednarodno priznanih revijah, kot sta npr. Comparative Politics in Communist and Post-Communist Studies.

Anda Totoreanu

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Anda Totoreanu je raziskovalka na Oddelku za mirovne operacije Romunskega mirovnega inštituta (PATRIR). Ima bogate izkušnje z raziskovanjem odnosov med spoloma, spolne identitete, manjšinskih pravic, integracijskega prava Evropske unije, socialne vključenosti, človekovih pravic in večnivojskega upravljanja. Anda je glavna analitičarka projekta Evropska mreža za nenasilje in dialog (ENND), v katerem sodeluje s partnerji iz petih drugih evropskih držav (Slovaška, Nemčija, Bolgarija, Poljska, Češka). Anda je tudi magistrirala iz ruskih in vzhodnoevropskih študij na Univerzi v Oxfordu, v magisteriju pa je obravnavala vprašanje večnivojskega upravljanja romskih pravic.

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