

## **15<sup>th</sup> anniversary of the Framework Convention for the Protection of National Minorities**

**Council of Europe, Strasbourg, 25 November 2013**

### **Minority rights Protection in the Western Balkans**

**Contribution by Dr. Petra Roter<sup>1</sup>**

Undoubtedly, issues that appertain to ethno-national diversity management and minority-related issues in particular are very pertinent in the region of (what is referred to as) Western Balkans. A lot of international and national attention has been devoted to minority protection there. A lot has changed – but not necessarily always to the better. There are some unexpected side-effects of what otherwise needs to be described as welcome international pressure, according to the international norms on minority protection as laid down in the Framework Convention (and some other international legally and politically binding documents). Additionally, in some cases, such pressures have simply not brought about desirable results – despite the hard work of international institutions, such as the Council of Europe, with its monitoring mechanisms like the Advisory Committee.

It is well known that there are a number of open issues and many old as well as new problems when it comes to minority protection or ethno-national diversity management in general. This is the case across Europe, but what makes the area of Western Balkans somewhat unique is a combination of two factors. On the one hand, this is the legacy of recent manifest conflicts and wars as a result of nation-building and state-formation processes. And, on the other hand, it is the ongoing – ambiguous and uncertain – process of European Union (EU) enlargement. If the former (i.e. the legacy of recent violent conflicts) makes it particularly hard to address minority issues and provide for minority rights as these are occasionally still viewed as an illegitimate benefit for the former aggressor identity group, then the latter (i.e. European integration) speeds up the process of changing legislation in order for states to comply with minority protection as a requirement for EU membership. In such a context, however, many challenges remain and I will address some of them.

To address the challenges with respect to minority protection in the Western Balkans, one first needs to reflect on the development and functioning of the contemporary international regime for national minority protection in Europe (and broadly). Above all, whilst the significance of

---

<sup>1</sup> Petra Roter, Ph.D. (Cambridge) is an Associate Professor of International Relations at the University of Ljubljana, Faculty of Social Sciences. She is an additional member of the Advisory Committee in respect of Slovenia. Her contacts: [petra.rotter@fdv.uni-lj.si](mailto:petra.rotter@fdv.uni-lj.si) and @PetraRoter.

EU integration and the reliance on the normative framework of the Framework Convention is unquestionable, it has been very clear that such a process can lead, and indeed has led in the past, to incomplete socialisation (i.e. incomplete acceptance of international norms). States have learned what appropriate 'European behaviour' is and they have changed accordingly their legal framework and sometimes also the institutional context, or – at the very least – their communication, sometimes also their policies on minority rights. However, change is still very much needed in terms of their political culture – a change that would pave the way for an actual change in diversity management in general and minority protection in particular.

Furthermore, the process of EU enlargement has clearly created a perception of double standards, which has further cast shadow on the process of changing the attitudes towards ethno-national diversity management in the Western Balkans and elsewhere. While the Advisory Committee has undoubtedly established itself as a tough, uncompromising monitoring mechanism, a substantive change within the EU would certainly help in the socialisation process across Europe, including in the Western Balkans. Academics have called this a need for a deep socialisation that would go beyond changing (and monitoring) merely the formal change (i.e. in legislation), but would instead concentrate on actual changes, both in attitudes towards non-dominant identity groups and consequently also in policies addressing various minority-related issues.

In some cases, international help appears needed in order to help change the attitudes on the ground. Here, I would like to stress the significance of supplementing the top-down approach (i.e. international pressure on the central authorities) with a bottom-up one (i.e. with incentives and long-term grass-root programmes for individuals and communities). For, political elites generally know rather well how they need to behave, as it were, but it is often either hard for them to convince the general public to follow them, or the general public lacks any incentives to do so. This discrepancy is also frequently seen between the central and the local authorities; between different communities; within communities; even between (local) authorities and the judiciary. Multi-level governance of minority protection will clearly need to be strengthened to address these diverse conflicts between stakeholders that occur at various levels of governance. Moreover, in the context of economic hardship, high unemployment and lack of opportunities for the often well-educated youth, a bottom-up approach may be even more warranted. It is very obvious that a lack of virtually any job opportunity for the young is a breeding ground for intolerance and hatred, which makes any reconciliation or post-conflict reconstruction impossible and it furthers opportunities for the development of racism, anti-Semitism, xenophobia and homophobia – quite worryingly also in sports (football in particular).

The recent legacy of manifest conflicts and wars, and the still ongoing process of nation-building and state-formation in the Western Balkans, provide a context that cannot be ignored when one tries to assess the significance of the Framework Convention in the region. Nationalism is still very much alive in this part of Europe – as it is elsewhere, but in the context of the Western Balkans, minority issues are perhaps even a more sensitive and a highly politicised issue. This is particularly so where minority rights, when established in practice, are generally seen as unjust concessions to the former adversary. This happens in circumstances where collectivisation of conflict parties still takes priority over individualisation of responsibility in the conflict/war. Here, any success of the Framework Convention or minority protection in general will depend on the procedural and outcome fairness in international and national criminal proceedings and on independent, capable and courageous judiciary to address any ethnically-motivated incidents or any sign of racism in a tough and efficient manner. In other words, success of minority protection will depend on the entire process of post-conflict reconstruction, which is itself a very sensitive issue.

Minority protection is a highly politicised issue also in cases where minority rights cement status-related differences between ethno-national communities. If minority protection can be viewed as providing too many concessions to the ‘wrong’ community, it can be also used as a way of cementing the status of some groups as non-dominant communities when it comes to decision-making in a political entity. This is a huge challenge for any human rights instrument. In the Western Balkans, the tension between non-discrimination and minority protection that effectively distinguishes between dominant title-nation (or nations) and national minorities (and all other groups) very much poses a challenge for the entire international regime for national minority protection. One of the very unfortunate effects seen (also) in the Western Balkans is the existence of parallel societies, polarised along ethnic lines, as a result of such inappropriate approaches to minority rights. In such circumstances, equal access to public sector jobs remains a challenge. All this leads to a situation where it is not desired to be defined as a minority. On the contrary, the name of the game is to avoid the status of a minority – except for groups that are typically not recognised as such (i.e. the so-called new minorities).

Minority protection is a politicised issue also due to the many legacies stemming out of the state-formation process. The formation of new states meant the adoption of new citizenship laws that typically continue to favour the granting of citizenship based on ethnic origin. It also meant the development of new old minorities – both traditional national minorities but also territorially scattered communities (the so-called new minorities that are still struggling for their status and rights). The state-formation process has also caused many gross violations of general human rights, as the European Court here in Strasbourg has ruled. Because these were typically violations of persons belonging to specific ethno-national non-dominant

communities, the settling of such violations unquestionably affects the ethno-national diversity management at present. The implementation of human and minority rights as written in the Framework Convention is therefore still frequently challenged by the legacies of the state-formation and nation-building processes. All this reinforces the protection of general human rights as a necessary precondition for effective minority protection and as a necessary precondition for integration of societies.

As elsewhere, the Western Balkans has unfortunately not been immune to the problem of bilateralisation of minority protection, or ethno-national politics more generally. In this case, a top-down approach, international incentives (if not pressures) are warranted before this 'virus' spreads further. The success of the Framework Convention of course depends on states – home states of minorities. When these are actively nationalising states, the international normative framework with independent monitoring mechanisms is even more needed – to make sure that every state completes its homework first. The emphasis on the development of friendly inter-state relations is still very much relevant in the Western Balkans as relations are burdened both by recent conflicts as well as by the process of EU integration, which causes some unhealthy competition and policy speculation. In the context of recent economic crisis the challenges of effective minority protection thus persist if they are not even increasing for the most vulnerable groups (the Roma in particular), but also for other national minorities or other non-dominant ethnic communities. A firm but fair international framework (a multi-layered regime) is therefore needed at least as much as it was 15 years ago.