

KIN-STATE ENGAGEMENT AND ITS IMPACT ON MINORITY PROTECTION IN EUROPE

Relevant findings for Southeast Europe



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E-mail: Horizontal.Facility@coe.int

Authors:
Andreea Udrea, Sergiu Constantin
and Ljubica Djordjević

Graphic design: Blumen Group d.o.o.

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Abstract

This paper offers an overview of kin-state engagement in Europe examining the extent to which it has contributed to the protection of the targeted ethnic groups.¹ It identifies those issues which are relevant for examining kin-state – kin minorities relations in Southeast Europe.

We aim to answer three main questions:

- 1) what is kin-state engagement and what makes a state a 'kin-state' and an ethnic community a 'kin minority group'?
- 2) what are the principles, standards and instruments that regulate kin-state – kin minorities relations in Europe and how do they shape state practices?
- 3) what has been the impact of kin-state engagement?

We conclude by highlighting the most prevalent issues in kin-state – kin minorities relations in Europe and advancing recommendations for further research in Southeast Europe.

I - Kin-state Engagement in Europe

Most states in Europe today are ethnically, linguistically and religiously diverse and include communities which share their cultural identity and/or history with titular groups in other states. Often recognised as national minorities in their home-states, they may also be claimed as external kin by another state (e.g., Denmark and Danish minority in Germany, Austria and German speakers in Italy, Hungary and ethnic Hungarians in Hungary's neighbouring states, Poland and ethnic Poles in Poland's neighbouring states, or Romania and Romanians, as well as Moldovans, Vlachs and Aromanians in the Western Balkans, Moldova and Ukraine as Romanian ethnic kin abroad). For this reason, they are referred to by scholars and practitioners as **kin minorities** or external minorities.

There are many cases in which the members of such groups and/or their ancestors became citizens of their current states involuntarily or against their wishes, and often because of border (re-) drawing. In Central, Eastern and Southeast Europe, the disintegration of the Ottoman and Austro-Hungarian empires, the peace settlements after the First and Second World Wars, and more recently, the dissolution of the Soviet Union and Yugoslavia contributed to the creation of a large number of kin minority groups. It is worth noting that, in some cases, external kin communities are kin majorities in their home-states (e.g., Romanophones in Moldova) (Knott 2022). Moreover, certain external kin communities are not considered minorities in their home-states but are nevertheless subject to kin-state actions. For example, the Constitution of Bosnia and Herzegovina distinguishes between two categories of citizens: the constituent peoples (i.e., Bosniaks, Croats, and Serbs) and others (i.e., persons belonging to national minorities such as Roma, and those who declare no affiliation).² Both Croatia and Serbia have a clear kin-state positioning vis-à-vis their kin constituent peoples from Bosnia and Herzegovina.

Kin-state engagement is not novel or particular to Europe, but it is inextricably linked to the rise of the nation-state. For example, Romania's attempts to forge ties with Balkan Aromanians go back to 1848 (Sorescu 2022), while states like China and Pakistan have also actively engaged with their ethnic kin abroad (Han forthcoming; Constantin and Carlà forthcoming). What distinguishes kin-state engagement in Europe from that elsewhere is the form it has taken after the end of the Cold War. In the last two decades, many European states have articulated obligations to support the cultural reproduction of their kin minority groups entrenching them in the constitution and/or special laws.

Even though such obligations have targeted different areas of international public policy, among which the dominant have been human rights, inclusion (i.e., the nature of the tie between the kin-state and its ethnic kin abroad), and economic development, most states in Europe have assumed a responsibility of identity recognition vis-à-vis their ethnic kin grounded in an assertion of cultural similarity with the titular group in the kin-state. Such states have subsidised their access to culture and education, and/or financed initiatives intended to promote their culture, strengthen their ethnic identity and the use of the mother tongue in their home-states. Some states have facilitated the access of their ethnic kin to citizenship (Dumbravă 2014; Agarín and Karolewski 2015). A few, however, have also adopted measures intended to boost the economic welfare of their ethnic kin in their home-states.

Thus, a kin-state in Europe has become one for which “a shared culture and/or common history between its titular group and ethnocultural communities, generally residing in the neighbouring countries, have become sources of special obligations often trans-sovereign in nature” (Udrea, forthcoming) and constitutionally anchored (Venice Commission 2001; Horváth 2008, 139-155; Pudzianowska 2021).

II - National Minorities in Inter-state Relations

One of the basic principles of international law is that the protection of minority rights is primarily the responsibility of the state where minorities live, usually referred to as the 'home-state'. At the same time, it is generally accepted that the treatment of national minorities may also be a matter of concern for their kin-states and the international community. The 1990 Copenhagen Document of the Conference on Security and Co-operation in Europe recognizes "the particular importance of increasing constructive co-operation" among the participating States on questions relating to national minorities in order "to promote mutual understanding and confidence, friendly and good-neighbourly relations, international peace, security and justice" (CSCE 1990, para. 36).

In the 1990s there were few normative standards for legitimate kin-state action. The European Cultural Convention adopted by the Council of Europe in 1954 sought mutual understanding among the peoples of Europe and reciprocal appreciation of their cultural diversity by encouraging primarily the mutual study of the languages, histories and cultures of the contracting parties. The European Charter for Regional or Minority Languages (ECRML) and the Framework Convention for the Protection of National Minorities (FCNM) adopted by the Council of Europe in 1992, and 1995 respectively, deal to a limited extent with the issue of national minorities in inter-state relations. However, since the late 1990s the Opinions/Evaluation Reports issued by the independent expert bodies that monitor the implementation of these conventions – the Advisory Committee on the Framework Convention (ACFC) and the Committee of Experts (COMEX) – have provided useful insights into kin-state actions highlighting the positive and negative developments within each monitoring cycle.

To date, the sole authoritative evaluation of the legislation on kin minorities in Europe remains the 2001 "Report on the Preferential Treatment of National Minorities by their Kin-State" (hereinafter the 2001 Venice Commission Report)³ carried out by the European Commission for Democracy through Law (Venice Commission). The Report acknowledges the importance of kin-state engagement for the protection of its kin minorities abroad (Venice Commission 2001, Section D) assessing its compatibility with the European standards and the norms and principles of international law. It concluded by asserting the role of four principles of international law to draw the limits of unilateral kin-state intervention (Venice Commission 2001, Section E):

- territorial sovereignty of states
- *pacta sunt servanda*
- friendly relations among states
- respect of human rights and fundamental freedoms, in particular the prohibition of discrimination.

In 2008, the OSCE High Commissioner on National Minorities (OSCE HCNM) issued the Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations. Intended to be an instrument of conflict prevention, the Recommendations build on the latest standard-

setting developments and practice and map out the current normative framework in this area. It is worth noting that kin-state engagement is regulated by both legally binding and non-binding international instruments (i.e., 'soft law').⁴ This is at the same time a weakness and a strength. It is a weakness because soft law standards are not legally enforceable. However, it is potentially also a strength because this normative framework allows the states to adopt a flexible and context-based approach, free from the straitjacket of hard law. Kin-states may adopt different forms of support vis-à-vis their ethnic kin abroad as long as their actions do not breach the basic principles of international law.

This section provides an overview of the main principles, standards, instruments and state practices. We start with relations between individuals based on the right of persons belonging to national minorities to establish and maintain peaceful contacts across frontiers and the corresponding obligations of their home-state. The enjoyment of this right is an essential condition for the preservation and development of a minority identity in the home-state. However, it has an intrinsic cross-border dimension and represents a key element for inter-state engagement. Further, we examine the protection of their minority rights in the context of the relations between states focusing on bilateral and multilateral agreements and instruments of cross-border cooperation. This general and broad normative framework for national minorities in inter-state relations laid down by the Council of Europe's FCNM and ECRML does not capture kin-state unilateralism but the OSCE HCNM's Bolzano/Bozen Recommendations fill this normative gap. Finally, we address the question of kin-state unilateral actions in the light of principles and standards of international law. As shown below, these principles and standards have defined the nature and extent of legitimate kin-state engagement.

Free and peaceful contacts across frontiers

The 1954 European Cultural Convention of the Council of Europe encourages the contracting parties to facilitate the movement of persons across borders and the exchange of objects of cultural value. It emphasizes that such policy represents a precondition for the implementation of the Convention's main aim of developing mutual understanding among peoples as well as reciprocal knowledge and appreciation of their languages, cultures, and history. Since the 1975 Helsinki Final Act, the OSCE human dimension framework includes several political commitments aimed at facilitating and developing cross-border contacts and cooperation. The OSCE documents stress that free contacts among residents of participating states represent an important element in the strengthening of friendly relations and trust among peoples and states. The free movement of persons and respect for human rights, including the rights of persons belonging to minorities, are core values and fundamental principles of the European Union (EU). However, the EU does not have its own minority-related standards therefore it relies on the normative framework developed by the Council of Europe and the OSCE.

Article 17 (1) FCNM and Recommendation 8 of the Bolzano/Bozen Recommendations provide the normative basis for the states' obligation not to restrict the right of persons belonging to national minorities to establish and maintain peaceful contacts across frontiers with persons lawfully residing in other states, in particular those with whom they share an ethnic, cultural, linguistic and/or religious identity. It should be noted that this negative obligation of the states must be read in conjunction with their positive obligation to promote the right of national minorities to preserve and develop their distinct identity, as stipulated by Article 5 FCNM and Recommendation 6 of the Bolzano/Bozen Recommendations. Few will dispute the claim that cross-border contacts with those sharing various elements of one's identity are

essential for the preservation and development of the respective ethnic, cultural, linguistic or religious identity.

Several aspects regarding the right to establish and maintain cross-border contacts are particularly relevant in the context of kin-state – kin minorities relations in Europe. First, these contacts must be peaceful (in its *lato sensu* meaning). States are entitled to intervene in situations where there is a substantiated risk that cross-border contacts undermine international law principles such as state sovereignty, territorial integrity and the respect of human rights and fundamental freedoms. Cross-border contacts “cannot therefore be used in support of minority claims to secession or irredentism” (Jackson-Preece 2005, 490).

Second, persons belonging to national minorities have the right to establish cross-border contacts not only with citizens of other states with whom they share a common identity but with any persons lawfully residing in the respective states. The standards are inclusive as they cover the wider category of lawful residents irrespective of their citizenship and their ethnocultural identity. However, they do not deal with contacts between persons belonging to national minorities and the governments of their kin-states. Governments are expected to address minority issues through bilateral and multilateral arrangements rather than unilateral actions, which risk compromising the climate of cooperation (Jackson-Preece 2005; Venice Commission 2001; see also sub-section (b) on “Bilateral and multilateral engagement”). Lantschner (2018, 299) points out that “[t]he existence of a so-called kin-state, whose majority population shares common characteristics with minorities living in other states, is thus not a requirement for taking advantage” of the right to unimpeded and peaceful contacts across frontiers.

Some ethnolinguistic groups (e.g., Basque, Gagauz, Roma) do not have a kin-state and are in a minority position in both their home-state and neighbouring countries. Indeed, the ACFC stressed that the right to establish and maintain contacts across borders “should be ensured not just for minorities with a kin-state, but also for all persons belonging to national minorities, including the Roma” (ACFC 2002, para. 78). It is noteworthy that the right to peaceful cross-border contact regards not only relations with residents of the kin-state but also contacts with persons belonging to kin communities living in other neighbouring countries. Exemplary in this respect are the close relations between Italian minority communities in Slovenia and Croatia, or the contacts among Hungarian minorities living in Hungary’s neighbouring countries such as Serbia and Romania.

Third, cross-border interaction consists of both physical and virtual contact. The former depends on the freedom of movement across frontiers which may be affected by entry requirements, visa regimes, availability of border crossings, temporary emergency measures, etc. The latter implies the freedom of communication of opinions, ideas, cultural expressions, social and scientific knowledge across frontiers which may be affected by limitations on the freedom of expression on certain grounds, such as national security, public order, public health, and public morals (Jackson-Preece 2005; Lantschner 2018).

The ACFC’s findings regarding Article 17 FCNM address mostly issues related to the freedom to physically move across borders (Lantschner 2018). It is not surprising as this is a particularly rich area of state action, with visible and quantifiable consequences for minority communities. In the past 20 years several events had a major impact on the freedom of movement across frontiers. The EU enlargement (2004-2013) created new EU external borders/Schengen borders affecting minority communities living in borderlands (Waterbury 2021; Bieber and

Bieber 2021; Danero Iglesias 2019). The migration/refugee crisis (2015) started a process of securitisation of borders all over Europe, but especially along the so-called Mediterranean and Western Balkans migration routes, which again had a significant impact on minority border regions (Panebianco 2022; Webb 2022; Carlà 2022; Leutloff-Grandits 2022). Furthermore Covid-19 pandemic led many governments in 2020-2021 to declare a state of emergency or to take equivalent measures such as closing national borders (or reintroducing border controls in the Schengen Area) and imposing strict lockdowns. Such emergency measures had a clear “negative impact on minorities living in cross-border regions in their ability to maintain contacts and cultural and linguistic activities with their kin-states” (Cramer Marsal, Ahlund and Wilson 2020, 23; see also Klatt 2020).

Over the years, the ACFC welcomed as good practice the simplification of visa procedures for residents of border regions in Estonia (ACFC 2005, para. 170), the abolishment of certain visa requirements in the case of Croatia and Albania (ACFC 2004, para. 176; ACFC 2008b, para. 216; ACFC 2011a, para. 186)⁵ as well as the opening of new border posts by Montenegro and Poland (ACFC 2008a, para. 108; ACFC 2013b, para. 215; ACFC 2013c, paras. 194–195). All these measures facilitate cross-border contacts which are not only important for maintaining the culture and identity of persons belonging to national minorities, but also for improving their socio-economic conditions (ACFC 2009a, para. 166).

Bilateral or multilateral agreements establishing visa-free regimes are particularly beneficial for minority communities living along borders. A recent positive example is the package of three agreements signed by the Western Balkans Six within the framework of the Berlin Process⁶ with the aim to facilitate freedom of movement and employment across the region. The agreements cover visa-free travel, recognition of academic qualifications and recognition of qualifications for certain professions (Brzozowski and Noyan 2022). It is expected to substantially improve mobility and cooperation within the Western Balkans.

This positive development comes at a time of great challenges for the region in terms of migration management and inter-state relations. For example, the migration/refugee crisis of 2015 led to disputes between neighbouring countries and the temporary closure of borders in the Western Balkans (Lantschner 2018). Such developments impact both minority communities and the society at large: first, they hinder the right of persons belonging to national minorities to establish and maintain free contacts across frontiers; and second, they contribute to channel the nationalist rhetoric towards vulnerable groups leading to the overall deterioration of human rights in the countries concerned. In this context, the ACFC reminded the authorities of North Macedonia of their human rights obligations towards refugees in line with international and regional instruments, while in the case of Croatia it warned against the potential negative impact on inter-ethnic relations of the nationalist rhetoric that accompanied disputes with neighbouring states and led to the temporary closure of borders (ACFC 2016a, para. 97; ACFC 2015, para. 99).

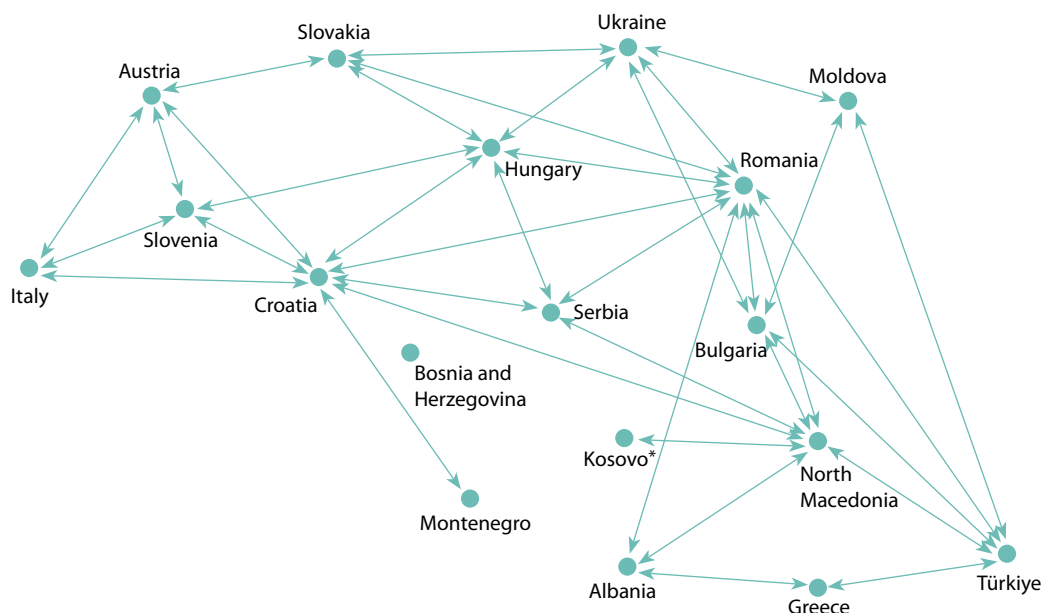
Bilateral and multilateral engagement

The normative framework for bilateral/multilateral engagement was developed already in the 1990s with the adoption by the Council of Europe of the FCNM and ECRML. Article 18 FCNM and Article 14 ECRML deal with relations between states focusing on two issues: a) bilateral and multilateral agreements aimed to ensure minority protection and to foster contacts between the users of the same language in the fields of culture, education, information; and b) cross-border

cooperation, in particular between local and regional authorities on the territory of which the same language is used. The Bolzano/Bozen Recommendations develop these provisions. First, the cooperation of states across frontiers should be on a territorial rather than an ethnic basis, involving not only local and regional authorities but also minority self-governments (Rec. 16). Second, bilateral/multilateral instruments and mechanisms (e.g., agreements, treaties, joint commissions, conflict resolution mechanisms) should follow the fundamental principles of international law and complement the existing international standards on human rights and minority protection (Recs. 17-19).

The ACFC has frequently welcomed cooperation between states through bilateral and multilateral agreements. It has encouraged states to conclude more bilateral treaties promoting friendly and good neighbourly relations, reaching special agreements in the field of minority protection (ACFC 2004, para. 180; ACFC 2007, para. 215; ACFC 2008b, para. 222; ACFC 2009b, paras. 265-266) and ensuring the effective participation of persons belonging to national minorities in the development, implementation and amendment of these instruments (ACFC 2003, para. 94; ACFC 2010, para. 175; ACFC 2016c, para. 108). Numerous such bilateral instruments have been signed by countries from Southeast Europe (see Figure below and Table in Appendix).

Figure: The network of bilateral instruments in Central and Southeast Europe



The establishment of joint intergovernmental commissions on national minorities based on specific provisions in bilateral agreements, as well as the involvement of minority representatives in the work of these bodies, represent illustrative examples of good practice (ACFC 2004b, para. 150; ACFC 2009b, para. 265; ACFC 2015a, para. 130; ACFC 2016b para. 175). Two factors condition the effectiveness of these joint commissions: frequency and regularity of their meetings, and their weight in shaping the outcomes of decision-making processes. First, the existence of joint intergovernmental commissions does not necessarily entail more

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

formal bilateral cooperation if their meetings do not take place regularly. Ukraine, Romania, Serbia and Hungary offer instructive examples in this regard. The Romanian-Ukrainian joint intergovernmental commission on national minorities met only five times between 1998 and 2017 and this situation negatively affected the implementation of their bilateral agreement despite the involvement of international observers (Constantin 2022; ACFC 2012, para. 153). Taking another example, the Serbian-Hungarian joint intergovernmental commission held only five sessions in the period 2004-2019 (Beretka and Korhecz 2019). Moreover, Serbian-Croatian joint commission only met once during 2013-2019, while the joint commissions of Serbia with North Macedonia and Romania did not meet at all in this period (ACFC 2019a, para. 137).

Second, despite the great potential of joint commissions, their effectiveness depends on the political will of the governments involved. Comparative assessments of the functioning of these bodies show mixed results. In Hungary, Croatia, Slovenia and Slovakia, the recommendations of joint commissions are reinforced by governmental decisions determining which public authorities will be responsible for their implementation. In Romania and Serbia, protocols containing the recommendations are to be submitted to their respective governments as political documents, but they are not included in regulations detailing the implementation process that public authorities should follow (Lantschner and Constantin 2005; Lantschner 2011; Perković 2016; Beretka and Korhecz 2019).

The ACFC welcomed the practice of transferring the protocols of the joint commission's meetings to central authorities to be used for national action plans (ACFC 2016b, para. 175) and recalled that bilateral agreements must be implemented in the spirit of good neighbourly and friendly relations and cooperation between states. The implementation of protective measures for national minorities should not be systematically contingent on reciprocity (i.e., conditional on the progress of similar issues in the neighbouring country) or dependent on the condition of bilateral relations (ACFC 2016b, para. 175; ACFC 2018, 163; ACFC 2019c, 186; ACFC 2021, 267). Joint commissions can play an important role in the resolution of bilateral disputes involving national minorities. For example, in the wake of the adoption in 2001 by Hungary of the controversial Act on Hungarians Living in the Neighbouring Countries (i.e., Status Law), the Hungarian-Romanian and Hungarian-Slovak joint commissions facilitated the political dialogue and contributed to the negotiation process that led to the conclusion of specific bilateral agreements regulating the disputed issues (Aurescu 2005; Lantschner 2011).

Compared to bilateral agreements, multilateral instruments are particularly suitable for cooperation on issues that concern minorities (and indigenous peoples) without kin-states.⁷ For instance, Norway, Sweden and Finland established in 2004 the Nordic Working Group for National Minorities to exchange experience at official level and signed the Nordic Sami Convention in 2017. The ratification process is still ongoing, but this is a positive example of multilateral engagement at regional level based on negotiations between neighbouring countries and consultations with political representatives of Sami communities which do not have a kin-state (ACFC 2017a, para. 107; ACFC 2022, para. 291-295; ACFC 2019b, para. 184-187). Taking another example, Western Balkans participants of the Regional Cooperation Council⁸ work together on several relevant issues for Roma minorities in the region (e.g., non-discrimination, access to education and employment). In 2019, they signed the Poznan Declaration of Western Balkans Partners on Roma Integration within the EU Enlargement, committing *inter alia* to establish mechanisms for involvement of the local governments and the Roma communities in decision-making, implementation and monitoring of activities undertaken to achieve full equality and integration of Roma.

The European normative standards on the triadic relationship between national minorities, home-states and kin-states are complemented at the supranational level by various instruments and mechanisms for cross-border cooperation. While not specifically designed to address minority issues, they can play an important role in minority border regions by facilitating “debordering processes” relevant for minority communities (Engl 2022). The Explanatory Note of the Bolzano/Bozen Recommendations refers to such supranational instruments that have been developed by the EU and the Council of Europe to promote transborder relations.

Over the last 30 years, the EU integration and enlargement have played a major role in the institutionalization of cross-border cooperation in minority contexts such as the German-Danish, Austrian-Italian, Hungarian-Slovak borderlands (Klatt 2017; Engl 2016; Balogh and Pete 2018). In 2006, the EU adopted the Regulation 1082/2006 on a European Grouping of Territorial Cooperation (EGTC).⁹ The EGTCs are bodies with legal personality, legal capacity and their own budget which are designed to facilitate and promote cross-border, transnational and interregional cooperation. Their overall scope is linked to the EU’s objectives of economic development, social integration and territorial cohesion which, in practice, covers matters of specific concern for minority groups (e.g., education, culture, cultural heritage). Most importantly, participation in EGTCs is also open to non-EU states. Article 3a of the Regulation 1082/2006 specifies that an EGTC may be made up of members located on the territory of at least two member-states and of one or more non-EU countries neighbouring at least one of those member states. For example, Tisza EGTC established in 2015 was the first EGTC that had been formed by the border areas of an EU member-state (Hungary) and a non-EU country (Ukraine).¹⁰

In the past decade, the EGTC has become “an important and vivid instrument for cross-border cooperation in minority contexts” (Engl 2022, 297). Recent research on the impact of the EU-supported cross-border cooperation in “culturally diverse borderscapes” (Engl 2020) confirms this positive assessment. First, 96% of the EGTCs functioning by mid-2020 (i.e., 72 out of the 75) are bi- or multilingual, in the sense that their statute provides for two or more working languages. Second, a high proportion of these EGTCs geographically overlap with minority border areas: 84% of the EGTCs functioning by mid-2020 (63 out of 75) include a member that is located in a minority border region. Multilingual bilateral EGTCs cover regions with strong linguistic and cultural identities – e.g., Catalonia, the Basque Country and Galicia in Spain or South Tyrol in Italy. Regional or minority languages spoken by communities without a kin-state (such as Catalan, Basque, Occitan, Galician and Ladin) are among the working languages of some of these EGTCs. For example, the multilingual EGTC Euroregion Nouvelle Aquitaine-Euskadi-Navarre between France and Spain invests in promoting the study of Basque, Spanish, French and Occitan¹¹ and has developed a programme to train French- and Basque-speaking bilingual primary teachers (Engl 2020, 207-209).

The majority of the EGTCs with a kin-state – kin minority connection are located in Central and Eastern Europe along the Hungarian, Slovak, Czech, Polish and Italian borders (Engl 2022). An illustrative example is the MURABA EGTC between Hungary and Slovenia¹² which promotes and supports bilingual education and training and “aims at facilitating the implementation of statutory rights of Hungarian and Slovene national minorities in the territory and the preserving of their language and culture” (Engl 2020, 209).

The Council of Europe has its own instrument on cross-border cooperation, the Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities.¹³ The Outline Convention’s Third Protocol (which entered into force in 2013) provides for the

legal status, establishment and operation of Euroregional Cooperation Groupings (ECGs). The members of an EGC are territorial communities or authorities of a state party to the Third Protocol. Territorial communities or authorities of a third country (i.e., a state that is not party to the Third Protocol) can also become member of an EGC, if an agreement with the state where the EGC has its headquarters so allows.¹⁴ As the ratification of the Third Protocol remains relatively low, it is difficult to anticipate the impact of ECGs on cross-border cooperation.

Unilateral engagement

Part III of the Bolzano/Bozen Recommendations provides the normative framework for different types of benefits that kin-states may grant to ethnic kin abroad. This set of specific recommendations builds on the analysis and conclusions of the 2001 Venice Commission Report. The benefits granted by the kin-states are divided into two main categories according to their scope of application *ratione loci*: (i) benefits to be enjoyed within the territory of the kin-state (OSCE HCNM, Rec. 9); and (ii) benefits to be enjoyed in the home-states of the beneficiaries (OSCE HCNM, Recs. 12-13). The first category includes *inter alia*: cultural and educational benefits (e.g., scholarships at educational institutions; reduction or exemption from fees for the use of cultural and educational facilities; recognition of academic diplomas); socio-economic benefits (e.g., work permits, social security and health insurance); and travel benefits (e.g., exemption from visa or facilitated access to visas, special tariffs for traveling within the kin-states). The second category of benefits mostly refers to culture and education. They include, for example, different forms of support of mother tongue education in the home-states (e.g., textbooks, scholarships, training for teachers), as well as assistance to local NGOs promoting the identity of kin minority groups.

The Bolzano/Bozen Recommendations assert that kin-states must refrain from taking unilateral measures that have the intention or effect of undermining the territorial integrity of home-states and must not neglect the minority groups living on their territories at the expense of kin minorities abroad (or a particular kin minority in one country) (OSCE HCNM, Recs. 10 and 15). Conversely, home-states should not obstruct the enjoyment of kin-states' benefits as long as they comply with the principles and standards of international law. Moreover, it is recommended that kin-states granting benefits to be enjoyed abroad must have the prior consent of the home-states where the respective measures are expected to produce effects (OSCE HCNM, Recs. 9, 12-13). The consent can be explicit or presumed (when based on existing agreements/treaties or international customs). Lastly, the benefits must be granted on a non-discriminatory basis. For instance, a scholarship programme of the kin-state could be open to all meritorious students from neighbouring countries, irrespective of their ethnic background. Henrard (2011, 80) points out that the "prohibition of discrimination carries most weight regarding the benefits enjoyed in the kin-state", while in the case of benefits accessible in the home-state, "the concern about territorial sovereignty is predominant". The latter category of benefits is also clearly more problematic in the light of the principle of friendly neighbourly relations. One specific aspect that has raised concerns is the issuing by a kin-state of an identification document that proves that its holder belongs to the kin minority and, thus they are entitled to have access to the benefits provided by the kin-state. Both the 2001 Venice Commission Report and the Explanatory Note to the Bolzano/Bozen Recommendations stress that such identification documents should not aim at establishing a political bond between its holder and the kin-state and should not substitute identity documents issued by the authorities of the home-state.

The ACFC reviewed in some of its Opinions the impact of kin-state support in the fields of education and culture. Its work offers useful insights regarding some problematic aspects of state practices, such as unequal access to state support, 'outsourcing' minority protection to the kin-state and establishing dependency on kin-state funding, as well as obstructing the activity of minority organisations in the home-state (see section 3).

III - The Impact of Kin-state Engagement and Salient Issues

Legal scholars have addressed kin-state engagement as international intervention (Kemp, Popovski and Thakur 2011) or a form of external minority protection (Bloed and van Dijk 1999; Venice Commission 2001; Palermo and Sabanadze 2011). Differently, the political science scholars have taken a broader view on kin-state politics looking at why, how, to what extent and implications states engage with their ethnic kin abroad (Waterbury 2020). They have argued that kin-state actions reflect different dynamics involving an ethnic group, its home-state and kin-state which are arguably constrained by international organisations in situations in which they breach international law (i.e., violation of friendly relations, sovereignty or territoriality) or threaten political endeavours, such as the European integration or the creation of a European security community (Smith 2002; 2020; Galbreath and McEvoy 2012; Udrea and Smith 2021).

In the last two decades, the multiplications and diversification of kin-state actions have challenged the norms and principles regulating the relations between a kin-state and its kin minority groups exposing the challenges of multilateralism in Europe (OSCE HCNM 2018). It has been shown that the European minority regime continues to promote the interests of state actors rather than those of minority groups (Kymlicka 2007; Galbreath and McEvoy 2012; Marko 2018; Smith forthcoming). Four issues dominate the current political science debates over kin-state – kin minorities relations in Europe: a) the instrumentalisation of kin-state engagement; b) the securitisation of kin minorities; c) the externalisation of kin-state citizenship; and d) the impact on the accommodation of kin minority groups as national minorities in their home-states.

The instrumentalisation of kin-state engagement

Kin minority protection is no longer the scope of many recent forms of kin-state engagement. The instrumentalisation of ethnic kin abroad for domestic and/or geopolitical gains has increasingly become more visible and widespread in recent years bringing the legitimacy and limits of kin-state engagement into the spotlight. Myra Waterbury shows that in the early 2000s Hungary's kin-state policies served to consolidate Fidesz as a political party (Waterbury 2010). More recently, countries including Poland, Bulgaria and Hungary directly targeted their respective ethnic kin with policies intended to encourage their immigration and labour market absorption in order to rectify the shortages in their domestic economies (Pudzianowska 2021; Vankova 2020; Tátrai, Erőss, and Kováli 2017). Bulgaria and Romania among others have attempted to use the ties with their ethnic kin in the neighbouring countries to enhance their regional standing and/or economic power (Smilov and Jileva 2013; Stjepanović 2015). Noteworthy it is also Serbia's use of militant rhetoric in its attempt to solidify its ties with the Serbs in the Western Balkans (Republic of Serbia Ministry of Foreign Affairs 2021), as well as the aggressive instrumentalisation by the President of Croatia of the ethnic kin in Bosnia and Herzegovina in international politics (President of Croatia 2022). Without any doubt, the most

worrying development is the militarisation of kin-state engagement of which Russia's war against Ukraine represents an egregious illustration (Schulze 2018; Cheskin & Kachuyevski 2019; Pieper 2020).

The securitisation of kin minorities

According to Saideman and Ayres, kin-state engagement in Central and Eastern Europe continues to raise security fears on the part of the home-states, kin minority groups and/or the international community (Saideman and Ayres 2015). In many places, border settlement arrangements remain contested, such as those between the Baltic states, Moldova, Georgia and Russia, which accentuate fears of irredentism. Moreover, while the expansion of the minority rights regime in post-1990 Europe and the deepening and extension of the European integration post-Lisbon Treaty have contributed to strengthening the standards and norms of kin-state – kin minorities relations, the international legal environment in which kin-states have engaged with their kin minorities remains very weak (Bloed and van Dijk 1999; Huber and Mickey 1999; Kemp, Popovski and Thakur 2011; Palermo 2011; Tesser 2015; Udrea and Smith 2021) and continues to depreciate (Mylonas and Radnitz 2022). Kin-state – kin minorities relations have remained securitised in Central and Eastern Europe (Smith forthcoming), but also in post-conflict contexts such as the French Basque Country and Northern Ireland. Radnitz and Mylonas (2022) further contend that the erosion of democratic values worldwide and geopolitical instability have increased the risk of securitisation of a larger number of national minorities.

Kin-state engagement is not always welcomed by targeted kin minorities. Kin-state activism can be viewed as a security risk by minorities themselves. For example, rather than fostering stronger ties with the Polish minority, Poland's kin-state activism in Lithuania has led to a lasting inter-state conflict (Liebich 2019). Differently, while the settlement of the 2012 conflict between Romania and Serbia over the accommodation of the Vlach community as a different minority group from the Romanian one fostered better cooperation between the two countries, in effect it remains incompatible with Serbia's multicultural policies and in particular with its defence of the right of national minorities to identity (Udrea forthcoming).

The externalisation of kin-state citizenship

Recommendation 11 of the Bolzano/Bozen on National Minorities in Inter-state Relations states that in line with principles of sovereignty and friendly relations between states, kin-states must refrain from granting citizenship *en masse* to members of kin minorities while their home-states should not discriminate against persons holding dual citizenship. Nevertheless, facilitated access to kin-state citizenship, in many cases extraterritorial, in nature has become the preferred policy approach of many kin-states in Europe in the last decade (Dumbravă 2014; Agarín and Karolewski 2015). Arguably the EU enlargement influenced this trend as several states used their citizenship policy to overcome the impact of the new rigid EU external borders (as well as the internal Schengen borders) on their relations with kin minorities (Bieber and Bieber 2021). For instance, Croatia adopted a simplified citizenship procedure for Croats abroad, in particular in Bosnia and Herzegovina and Serbia, as has Hungary in 2011 in relation to ethnic Hungarians in the neighbouring states. Bulgaria granted easier access to citizenship to its ethnic kin abroad already in 1999 with the largest number of applications coming from North Macedonia, as well as Serbia and Albania. Even earlier, since 1991, Romania's legislation has facilitated access to citizenship to former citizens and their descendants living abroad.

Non-resident citizenship for persons belonging to kin minorities has remained a highly sensitive issue in inter-state relations. The legal and political bond it creates between individuals and their kin-states has fuelled tensions in inter-state relations and between the majority group and minority communities in the home-states. In the last decade, the most contentious issues have been related to: 1) sovereignty and group loyalty as in the case of the impact of Romania's citizenship policies in Ukraine and Moldova (Udrea 2015); and 2) their ethno-demographic impact, in particular the high emigration such policies have contributed to (Dumbravă 2019). Despite their serious repercussions on domestic politics and the demography of national minorities, the ACFC has rarely commented on the practice of facilitating the access to citizenship for persons belonging to kin minorities (Lantschner 2018).

The impact on integration of minority groups in their home-states

It was argued elsewhere that kin-state engagement should complement home-state multiculturalism (Udrea 2011; Udrea and Smith 2021). However, scholarly research on the nature and impact of kin-state politics has shown a lack of complementarity between the two. In many cases, kin-state involvement has had negative effects on the fate of the targeted national minority groups in their home-states either by weakening the commitments of home-states to better their accommodation or by damaging the abilities of such groups to negotiate better terms. The following examples illustrate some of the dominant issues regarding the impact of kin-state engagement on the integration of minority groups in their home-states.

Inequalities of access to state support: The ACFC called on the authorities of Bosnia and Herzegovina to carefully consider whether the support from neighbouring countries responds to the aim of promoting mutual respect, understanding and tolerance and does not further entrench division or segregation along ethnic lines (ACFC 2013a, para. 184; ACFC 2017b para. 145). Moreover, the authorities of Bosnia and Herzegovina must ensure that minorities that do not enjoy the support by a kin-state are not left in a disadvantaged position (ACFC 2013a, para. 183).

Transfer of responsibility for minority protection: The ACFC raised concerns regarding the practice of 'outsourcing' fundamental areas of minority protection to the kin-state and recalled that the primary responsibility for the protection of persons belonging to national minorities rests with the home-state. The Danish-German approach is a case in point. The situation of the Danish minority in Germany and the German minority in Denmark are usually mentioned as positive examples of cultural diversity governance. However, over the years, the system of protection of German minority rights in Denmark and of Danish minority rights in Germany has evolved to depend on kin-state funding (ACFC 2014, para. 96).

Dependence on kin-state funding: The financing of Hungarian-language media abroad has shown to depend on the political and economic circumstances in Hungary. In turn, this raises concerns about the extent of political control and uncertainty about the future. In November 2022, Romanian and international media reported that two-thirds of the journalists working at several Hungarian-language print/online newspapers and radio stations in Romania would be fired by the end of the year (Necsutu 2022). The layoffs are caused by a drastic reduction of this external funding due to the current financial crisis in Hungary.

Barriers to civic engagement in the home-state: In terms of practices, the ACFC welcomed the cooperation between minority NGOs from home-states and kin-states with the support of local authorities of the home-states, which has contributed to the development of cultural co-operation at local level (Lantschner 2018, 304-305). At the same time, the ACFC expressed concerns in cases of unjustified interference of national authorities with the work of minority NGOs which benefitted from support from the neighbouring states and/or engaged in cooperation with organisations from such countries. For instance, in the case of Russia it pointed out that representatives of minority NGOs “reported being considered as ‘traitors’ or ‘extremists’ when cooperating with some states on legitimate interests for the minority groups concerned, including preservation of the language and culture” (ACFC 2011b, para. 239).

IV - Recommendations for Further Research

Protection of national minorities in Southeast Europe is in many instances driven by the relations between home-state and kin-state. The dynamic of relations between these two actors often has significant implications on the position of national minorities, while their position can influence and determine the quality of inter-state relations. The region offers insights into a variety of examples of different home-state/kin-state constellations: harmonious and compatible policies with adequate division of responsibilities for minority protection; indifferent home-states, and active kin-states with an asymmetric shift of responsibility for minority protection to the kin-state; as well as examples of inter-state tensions with detrimental effects for national minorities. Against this backdrop and taking into consideration the research presented in previous sections, we highlight the following areas of research.

a. Mapping kin-state engagement in Southeast Europe: practices, instruments, effects

Kin-state engagement in Southeast Europe has taken many forms, which essentially remains under-researched. Particular issues attract attention in the times of crises or tensions, but what is lacking is a comprehensive and deep study of kin-state policies in the region. Hence, there is a clear need for a systematic mapping of kin-state engagement in the region.

b. Unilateralism, Bilateralism, and Multilateralism in kin-state engagement in Southeast Europe

Generally, kin-state support should be of secondary relevance for minority protection. The primary responsibility lies with the home-state. However, kin-state engagement has regained importance and has implications for the whole system of minority protection in Europe. There are strong voices that due to the renewed engagement of kin-states, multilateralism is losing momentum and minority protection is getting bilateralized in worrying ways: multilateral institutions have been facing bilateralization and become forums for kin-state interventionism, home-states have lost interest or even deliberately shrunk minority protection because of real or perceived kin-state interventionism. The instrumentalisation of minority issues has regrettably regained momentum. Not only because of existing tensions (of various intensity) in Southeast Europe affecting minority protection and the quality of interethnic relations, it would be welcome to explore the dynamic of unilateralism, bilateralism, and multilateralism in the home-state/kin-state relations in Southeast Europe. This could help to better grasp the outstanding issues and explore optimal ways to decrease polarisation and to strengthen regional/multilateral initiatives.

c. (De)Stabilizing effects of kin-state engagement: national minorities between the home-state and kin-state

Kin-state support is an important factor in minority protection in Southeast Europe. In many instances, the survival of national minorities as distinct ethnic groups strongly depends on the support of their kin-state, to the extent that in essence minority protection is 'outsourced' to the kin-state. This can be decisive for the protection of specific groups and may not necessarily be destabilizing for the home-state. However, 'outsourcing' of minority protection to the kin-

state can have significant negative effects: it can weaken social cohesion in the home-state (especially when underpinned by the marginalisation or exclusion of the targeted minority group in the home-state), which can have serious implications on instrumentalisation and securitisation of minority issues, and may trigger a process of destabilisation. Thus, it would be valuable to explore the dynamics between home-state, kin-state and kin minorities to identify determinants and patterns that define these relations and elicit different outcomes.

d. Effects of bilateral agreements on minority protection and (dis)functionality of intergovernmental commissions

As described above, the region shows a network of various bilateral agreements pertinent to minority protection. In many instances, the implementation of bilateral agreements is monitored by intergovernmental commissions with questionable success. While research on selected case-studies has been done, a comprehensive study is lacking. The general assumption is that while bilateralisation of minority issues is evident, much of this occurs at higher diplomatic levels, while intergovernmental commissions are often 'empty shells' dealing with minor issues and often without real impact. It would be valuable to explore the effects of bilateral agreements and intergovernmental commissions with the primary goal of identifying good practices and examining the potentialities of intergovernmental commissions as tools for inter-state cooperation in the area of minority protection.

e. EU integration and kin-state engagement in Southeast Europe

The European Union has encouraged the bilateralisation of minority issues, especially in the context of the accession process. Notwithstanding the fact that bilateral issues should remain out of the accession negotiations, kin-states have used the EU conditionality to advocate for the better protection of their kin minorities. Moreover, the EU funds are also extensively used for projects that target national minorities. Against this backdrop and in the context of aspired EU membership by the Western Balkan Six, it is recommended to explore the impact of the EU integration process on the protection of national minorities focusing on kin-state engagement. Two issues are timely: to what extent states (mis)use the idea of European unity for their 'egoistic' purposes, and how antagonisms can be shifted towards an approach at the heart of which are common values rather than particular national interests.

f. The Impact of cross-border cooperation instruments on national minorities

There are numerous cross-border projects in Southeast Europe. Even though some directly target national minorities, their impact on national minorities is rarely considered. Furthermore, their in-depth research may be beneficial to reveal ways for stronger 'minority mainstreaming' in designing and implementing cross-border projects.

g. The image of kin-state: kin minority perspectives and responses

Kin-state engagement is almost always explored from the perspective of the state: it is state-centric and the kin-minority is often perceived as a (homogenous) beneficiary. There is an urgent need to shift the approach and explore the relationship between kin-state and kin-minorities from the perspective of the latter: how kin-minorities perceive their kin-state and the kin-state support, whether they can establish 'agency' and an active role in their relationship with the kin-state, and what interests they pursue.

h. Socio-economic and demographic effects of kin-state engagement

Kin-state support is primarily analysed as political engagement, while its socio-economic dimension remains neglected. One significant outcome of kin-state engagement is emigration:

most if not all minorities in the region face a demographic decline, due, among other factors, to high emigration from the home-state. The most common target of such emigration is the kin-state, although migration flows show different patterns (especially in the context of the free movement within the EU). How does the kin-state contribute to the emigration of the ethnic kin abroad? What are the broader socio-economic effects of kin-state engagement? To what extent does the kin-state contribute to improve the education opportunities of its ethnic kin, their employment perspectives, and/or social care?

i. Grassroots initiatives and cross-border cooperation: intra- or inter-group cooperation

Kin-state engagement does not occur only at the national level, but also at regional and local levels. Indeed, many initiatives are implemented at the local and regional levels, notwithstanding the importance of the favourable context at the (inter-) state level. However, it has been observed that many initiatives are limited to people belonging to the same (ethnic) group living on the different sides of the border. The research on cross-border cooperation would benefit from shifting the focus from the state and national initiatives to non-state actors and regional and local projects, and from exploring the impact of the latter on minority protection, cross-border cooperation and intra- and inter-group dynamics. This could be done on the basis of several 'exemplary' case-studies across the region of Southeast Europe.

V - General Recommendations for Serbia

- **Balance between minority protection and kin-state engagement:** It is recommended to ensure primarily the implementation of their obligations vis-à-vis the national minorities on their territory while pursuing a balanced and proportionate engagement with their ethnic kin abroad.
- **Transparent and accountable kin-state engagement:** It is strongly advised to avoid engaging in kin-state activism based on domestic and/or geopolitical interests and act only after prior information of and consultation with both their ethnic kin abroad and the governments of their home-states.
- **Enhanced cross-border cooperation:** Many examples from across Europe recommend to encourage and support sub-state authorities to enhance cross-border cooperation by means of the multilateral instruments designed by the CoE and the EU (n.b., the EGTCs are open to non-EU member states as well).
- **Effective intergovernmental joint bodies and policy implementation:** It is further recommended to ensure that the joint intergovernmental commissions established through their bilateral treaties meet regularly and take the necessary measures to improve their functioning and to ensure that public authorities implement the minority-related measures agreed upon.
- **Multilateral dialogue and consultation:** In the current context, it is strongly advisable to engage in a continuous dialogue and consultation with international organisations – CoE, OSCE and EU – on minority protection and kin-state engagement in order to lower the potential of inter-state conflicts and find solutions to open issues through mediation, negotiation and compromise.

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Appendix

Table. Selection of bilateral instruments pertinent to minority protection in Central and Southeast Europe

| | Bilateral instruments on minority protection | Other bilateral instruments relevant for minority protection |
|---------|--|---|
| Albania | | <p>Treaty on Understanding, Cooperation and Good Neighbourliness between the Republic of Albania and Romania (11 May 1994)</p> <p>Treaty of Friendship, Cooperation, Good Neighborliness and Security between the Republic of Albania and the Greek Republic (21 March 1996)</p> <p>Agreement between the Government of the Republic of Albania and the Republic of Greece on cooperation in the fields of education, science and culture (4 November 1998)</p> <p>Agreement between the Government of the Republic of Albania and the Government of the Republic of Macedonia for cooperation in education and science (2 July 2015)</p> |
| Austria | Austro-Italian Agreement concerning the rights of the German-speaking population of South Tyrol (5 September 1946) | <p>Agreement between the Government of the Republic of Austria and the Government of the Slovak Republic on cooperation in the fields of culture, education and science (13 October 1999)</p> <p>Agreement between the Government of the Republic of Austria and the Government of the Republic of Slovenia on cooperation in the fields of culture, education and science (30 April 2001)</p> |

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| | | Agreement between the Government of the Republic of Austria and the Government of the Republic of Croatia in the fields of culture and education (5 October 2004) |
| Bosnia and Herzegovina* | | *Note: This table lists inter-state bilateral instruments therefore we did not include agreements at entity level (i.e., Agreement on Special Relations between the Republic of Croatia and the Federation of Bosnia and Herzegovina, 22 November 1998; and Agreement on establishment of special parallel relations between the Republic of Serbia and the Republika Srpska, 26 September 2006) |
| Bulgaria | | <p>Treaty of Friendship, Cooperation and Good Neighbourliness between the Republic of Bulgaria and Romania (27 January 1992)</p> <p>Treaty of Friendship, Good Neighbourliness, Cooperation and Security between the Republic of Bulgaria and the Republic of Turkey (6 May 1992)</p> <p>Treaty on Friendly Relations and Cooperation between the Republic of Moldova and the Republic of Bulgaria (7 September 1992).</p> <p>Treaty on friendly relations and cooperation between Ukraine and the Republic of Bulgaria (5 October 1992)</p> <p>Agreement on Cooperation in the Fields of Culture, Education and Science between the Government of the Republic of Turkey and the Government of the Republic of Bulgaria (4 December 1997)</p> <p>Treaty of Friendship, Good Neighbourliness and Cooperation between the Republic of Bulgaria and the Republic of Macedonia (1 August 2017)</p> |

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| Croatia | <p>Memorandum of Understanding between Croatia, Italy and Slovenia on the protection of the Italian Minority in the Republic of Hungary and the Hungarian Minority in the Republic of Croatia (5 April 1995)</p> <p>Treaty between the Republic of Croatia and the Italian Republic on the rights of minorities (5 November 1996)</p> <p>Agreement between the Republic of Croatia and Serbia and Montenegro on the protection of the Croatian minority in Serbia and Montenegro and Serbian and Montenegrin minority in the Republic of Croatia (15 November 2004)</p> <p>Agreement on the Protection of the Croatian Minority in the Republic of Macedonia and the Macedonian Minority in the Republic of Croatia (13 October 2007)</p> <p>Agreement between the Republic of Croatia and Montenegro on the Protection of the Croatian Minority in Montenegro and the Montenegrin Minority in the Republic of Croatia (14 January 2009)</p> | <p>Treaty between the Republic of Hungary and the Republic of Croatia on Friendly Relations and Cooperation (16 December 1992)</p> <p>Agreement on cultural and educational cooperation between the Government of the Republic of Croatia and the Government of the Republic of Slovenia (7 February 1994)</p> <p>Treaty on the Relations of Friendship and Cooperation between Romania and the Republic of Croatia (16 February 1994)</p> <p>Treaty between the Federal Government of Federal Republic of Yugoslavia and the Government of the Republic of Croatia on collaboration in the fields of culture and education (23 April 2002)</p> <p>Agreement between the Government of the Republic of Austria and the Government of the Republic of Croatia in the fields of culture and education (5 October 2004)</p> |
| Greece | | <p>Cultural Protocol between Greece and Turkey (20 December 1968)</p> <p>Treaty of Friendship, Cooperation, Good Neighbourliness and Security between the Republic of Albania and the Hellenic Republic (21 March 1996)</p> <p>Agreement for Cooperation in the Fields of Education, Science and Culture between Albania and the Hellenic Republic (4 November 1998)</p> |

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| | | Agreement between the Hellenic Republic and the Republic of Turkey on cultural cooperation (4 February 2000) |
| Hungary | <p>Declaration on the Principles of Cooperation between the Republic of Hungary and the Ukrainian Soviet Socialist Republic in Guaranteeing the Rights of National Minorities (31 May 1991)</p> <p>Convention on Providing Special Rights for the Slovenian Minority Living in the Republic of Hungary and for the Hungarian Minority Living in the Republic of Slovenia (6 November 1992)</p> <p>Convention between the Republic of Hungary and the Republic of Croatia on the Protection of the Hungarian Minority in the Republic of Croatia and the Croatian Minority in the Republic of Hungary (5 April 1995)</p> <p>Memorandum of Understanding between the Government of the Republic of Hungary and the Government of Romania Concerning the Law on Hungarians Living in Neighbouring Countries and Issues of Bilateral Co-operation (22 December 2001)</p> <p>Agreement between the Government of Romania and the Government of the Republic of Hungary with regard to implementing the Law on Hungarians Living in Neighbouring Countries concerning Romanian citizens (23 September 2003)</p> <p>Agreement between Serbia and Montenegro and the Republic of Hungary on protection of rights of</p> | <p>Treaty on the Bases of Good Neighbourhood and Cooperation between the Republic of Hungary and Ukraine (6 December 1991)</p> <p>Treaty on Friendship and Cooperation between the Republic of Hungary and the Republic of Slovenia (1 December 1992)</p> <p>Treaty between the Republic of Hungary and the Republic of Croatia on Friendly Relations and Cooperation (16 December 1992)</p> <p>Treaty on Good Neighbourly Relations and Friendly Cooperation between the Republic of Hungary and the Slovak Republic (19 March 1995)</p> <p>Treaty between the Republic of Hungary and Romania on Understanding, Cooperation and Good Neighbourhood (16 September 1996)</p> |

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| | the Hungarian national minority living in Serbia and Montenegro and of the Serbian national minority living in the Republic of Hungary (21 October 2003) | |
| Italy | <p>Austro-Italian Agreement concerning the rights of the German-speaking population of South Tyrol (5 September 1946)</p> <p>Memorandum of Understanding between Croatia, Italy and Slovenia on the protection of the Italian minority in Croatia and Slovenia (15 January 1992)</p> <p>Treaty between the Republic of Croatia and the Italian Republic on the rights of minorities (5 November 1996)</p> | <p>Agreement of cooperation in the fields of culture and education between the government of the Italian Republic and the government of the Republic of Slovenia (8 March 2000)</p> |
| Kosovo | | <p>Agreement with the Government of the Republic of Macedonia on cooperation in the field of education and science (2 July 2015)</p> |
| Moldova | | <p>Treaty on Friendly Relations and Cooperation between the Republic of Moldova and the Republic of Bulgaria (7 September 1992)</p> <p>Treaty of Good Neighborliness, Friendship and Cooperation between the Republic of Moldova and Ukraine (23 October 1992)</p> <p>Treaty of Friendship and Cooperation between the Republic of Moldova and the Republic of Turkey (3 June 1994)</p> |
| Montenegro | <p>Agreement between Montenegro and the Republic of Croatia on the Protection of the Rights of the Montenegrin Minority in the Republic of Croatia and the Croatian Minority in Montenegro (14 January 2009)</p> | |

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| <p>North Macedonia</p> | <p>Agreement between the Republic of Macedonia and Serbia and Montenegro on the protection of the Macedonian national minority in Serbia and Montenegro and protection of the Serbian and Montenegrin national minority in the Republic of Macedonia (6 July 2004)</p> <p>Agreement on the Protection of the Croatian Minority in the Republic of Macedonia and the Macedonian Minority in the Republic of Croatia (13 October 2007)</p> | <p>Treaty on Friendship, Good Neighborly Relations and Cooperation between the Republic of Macedonia and the Republic of Türkiye (14 July 1995)</p> <p>Agreement for Cooperation in Culture and Science between the Government of the Republic of Macedonia and the Government of the Republic of Croatia (4 December 1995)</p> <p>Agreement between the Government of the Republic of Macedonia and the Federal Government of the Federal Republic of Yugoslavia on Cooperation in the Spheres of Culture, Education and Sport (3 July 1997)</p> <p>Agreement between the Government of the Republic of Macedonia and the Government of the Republic of Bulgaria on cooperation in the field of culture (15 May 2000)</p> <p>Agreement between the Government of the Republic of Macedonia and the Government of the Republic of Bulgaria on cooperation in the field of education and science (15 May 2000)</p> <p>Treaty on Friendship and Co-operation between Romania and the Republic of Macedonia (30 April 2001)</p> <p>Agreement between the Government of the Republic of Albania and the Government of the Republic of Macedonia for cooperation in education and science (2 July 2015)</p> <p>Agreement on cooperation in the field of education and science (2 July 2015)</p> |
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| | | Treaty of Friendship, Good Neighbourliness and Cooperation between the Republic of Bulgaria and the Republic of Macedonia (1 August 2017) |
| Romania | <p>Memorandum of Understanding between the Government of the Republic of Hungary and the Government of Romania Concerning the Law on Hungarians Living in Neighbouring Countries and Issues of Bilateral Co-operation (22 December 2001)</p> <p>Agreement between the Government of Romania and the Government of the Federal Republic of Yugoslavia on co-operation in the field of protection of national minorities (30 October 2002)</p> <p>Agreement between the Government of Romania and the Government of the Republic of Hungary with regard to implementing the Law on Hungarians Living in Neighbouring Countries concerning Romanian citizens (23 September 2003)</p> | <p>Treaty of Friendship, Good Neighbourliness and Cooperation between Romania and Turkey (19 September 1991)</p> <p>Treaty of Friendship, Cooperation and Good Neighbourliness between Romania and Bulgaria (27 January 1992)</p> <p>Treaty on the Relations of Friendship and Cooperation between Romania and the Slovak Republic (24 September 1993)</p> <p>Treaty on the Relations of Friendship and Co-operation between Romania and the Republic of Croatia (16 February 1994)</p> <p>Treaty on Understanding, Cooperation and Good Neighbourliness between Romania and the Republic of Albania (11 May 1994)</p> <p>Treaty on the Relations of Friendship, Good Neighbourliness and Cooperation between Romania and the Federal Republic of Yugoslavia (16 May 1996)</p> <p>Treaty on Understanding, Cooperation and Good Neighbourliness between Romania and the Republic of Hungary (16 September 1996)</p> <p>Treaty on the Relations of Good Neighbourliness and Cooperation between Romania and Ukraine (2 June 1997)</p> |

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| | | Treaty on Friendship and Cooperation between Romania and the Republic of Macedonia (30 April 2001) |
| Serbia | <p>Agreement between the Government of Romania and the Government of the Federal Republic of Yugoslavia on cooperation in the field of protection of national minorities (30 October 2002)</p> <p>Agreement between Serbia and Montenegro and the Republic of Hungary on protection of rights of the Hungarian national minority living in Serbia and Montenegro and of the Serbian national minority living in the Republic of Hungary (21 October 2003)</p> <p>Agreement between Serbia and Montenegro and the Republic of Macedonia on the protection of Serbian and Montenegrin national minority in the Republic of Macedonia and Macedonian national minority in Serbia and Montenegro (6 July 2004)</p> <p>Agreement between the Republic of Croatia and Serbia and Montenegro on the protection of Serbian and Montenegrin national minority in the Republic of Croatia and Croatian minority in Serbia and Montenegro (15 November 2004)</p> | <p>Treaty on the Relations of Friendship, Good Neighbourliness and Cooperation between Romania and the Federal Republic of Yugoslavia (16 May 1996)</p> <p>Treaty between the Federal Government of Federal Republic of Yugoslavia and the Government of the Republic of Macedonia on collaboration in the fields of culture, education and sports (3 July 1997)</p> <p>Treaty between the Federal Government of Federal Republic of Yugoslavia and the Government of the Republic of Croatia on collaboration in the fields of culture and education (23 April 2002)</p> |
| Slovakia | | <p>Treaty on Good Neighborliness, Friendly Relations and Cooperation between the Slovak Republic and Ukraine (29 June 1993)</p> <p>Treaty on the Relations of Friendship and Cooperation between Romania and the Slovak Republic (24 September 1993)</p> |

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| | | <p>Treaty on Good-Neighbourly Relations and Friendly Cooperation between the Republic of Hungary and the Slovak Republic (19 March 1995)</p> <p>Agreement between the Government of the Republic of Austria and the Government of the Slovak Republic on cooperation in the fields of culture, education and science (13 October 1999)</p> |
| Slovenia | <p>Convention on Providing Special Rights for the Slovenian Minority Living in the Republic of Hungary and for the Hungarian Minority Living in the Republic of Slovenia (6 November 1992)</p> | <p>Treaty on Friendship and Cooperation between the Republic of Hungary and the Republic of Slovenia (1 December 1992)</p> <p>Agreement on cultural and educational cooperation between the Government of the Republic of Croatia and the Government of the Republic of Slovenia (7 February 1994)</p> <p>Agreement of cooperation in the fields of culture and education between the government of the Italian Republic and the government of the Republic of Slovenia (8 March 2000)</p> <p>Agreement between the Government of the Republic of Austria and the Government of the Republic of Slovenia on cooperation in the fields of culture, education and science (30 April 2001)</p> |
| Ukraine | | <p>Treaty on the Bases of Good Neighbourhood and Cooperation between the Republic of Hungary and Ukraine (6 December 1991)</p> <p>Treaty on friendly relations and cooperation between Ukraine and the Republic of Bulgaria (5 October 1992)</p> <p>Treaty of Good Neighborliness, Friendship and Cooperation between the Republic of Moldova and Ukraine (signed on 23 October 1992)</p> |

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| | | Treaty on the Relations of Good Neighbourliness and Cooperation between Romania and Ukraine (2 June 1997) |
| Türkiye | | <p>Cultural Protocol between Greece and Turkey (20 December 1968)</p> <p>Treaty of Friendship, Good Neighbourliness and Cooperation between Romania and Turkey (19 September 1991)</p> <p>Treaty of Friendship, Good Neighbourliness, Cooperation and Security between the Republic of Bulgaria and the Republic of Turkey (6 May 1992)</p> <p>Treaty of Friendship and Cooperation between the Republic of Moldova and the Republic of Turkey (3 June 1994)</p> <p>Treaty on Friendship, Good Neighborly Relations and Cooperation between the Republic of Macedonia and the Republic of Turkey (14 July 1995)</p> <p>Agreement on Cooperation in the Fields of Culture, Education and Science between the Government of the Republic of Turkey and the Government of the Republic of Bulgaria (4 December 1997)</p> <p>Agreement between the Hellenic Republic and the Republic of Turkey on cultural cooperation (4 February 2000)</p> |

List of acronyms

ACFC – Advisory Committee on the Framework Convention

CoE – Council of Europe

COMEX – Committee of Experts of the European Charter for Regional or Minority Languages

CSCE – Conference on Security and Cooperation in Europe

ECG – Euroregional Cooperation Grouping

ECRML – European Charter for Regional or Minority Languages

EGTC – European Grouping of Territorial Cooperation

EU – European Union

FCNM – Framework Convention for the Protection of National Minorities

HCNM – High Commissioner on National Minorities of the OSCE

OSCE – Organization for Security and Co-operation in Europe

Authors

Andreea Udrea

Lecturer in Politics at Royal Holloway, University of London and co-convenor of KINPOL Observatory on Kin-state Policies at the University of Glasgow. Correspondence address: Andreea.Udrea@rhul.ac.uk.

Sergiu Constantin

Senior Researcher at the Institute for Minority Rights of Eurac Research (Bolzano/Bozen, Italy). Correspondence address: sergiu.constantin@eurac.edu.

Ljubica Djordjević

Senior Researcher and Head of the 'Justice & Governance' Cluster at the European Centre for Minority Issues (Flensburg, Germany). Correspondence address: djordjevic@ecmi.de.

Endnotes

1

In line with the political science and sociology use of the term, ethnic groups refer here to communities for which a shared culture, common history, language and/or religion not only represent dominant features of their collective identity, but they are also politically salient.

2

Persons belonging to all ethnic groups – constituent peoples and the small communities that form the category "others" – must enjoy equal rights irrespective of where they live in the country.

3

Following the adoption of the Act LXII of 2001 on Hungarians Living in the Neighbouring Countries (Hungarian Parliament, 2001), Romania and Slovakia argued that the provisions encouraging labour migration and facilitating free transport for ethnic Hungarians only, as well as the need to obtain a Certificate of Hungarian Ethnic Origin and Certificate for Dependents of Persons of Hungarian Nationality in order to access the benefits granted by the Act, are in breach of their bilateral treaties with Hungary and the principles of non-discrimination, subsidiarity and reciprocity (Udrea and Smith, 2021).

4

The FCNM and ECRML belong to the legally binding category which includes treaties, conventions, agreements that compel the contracting parties to respect the agreed terms. The Opinions of the ACFC and the Bolzano/Bozen Recommendations are non-binding instruments which have a political weight and provide guidance to the states. While the concept of soft law is not an easy one to grasp, most international lawyers agree that legal consequences flow from such non-binding international documents. Defining soft law may be indeed challenging if one attempts a clear demarcation between legal, quasi-legal and non-legal. Therefore, "soft law is best understood as a continuum, or spectrum, running between fully binding treaties and fully political positions" (Guzman and Meyer 2010, 173). The nonbinding documents of the Council of Europe and the OSCE High Commissioner on National Minorities "summarise the normative state of affairs" taken over from their monitoring activities, inform the states' understanding of binding instruments and guide their conduct regarding minority rights protection (Marko et al 2019, 84).

5

The ACFC has repeatedly addressed the issue of visa requirements and their implementation which must not cause undue obstacles or restrictions on the right to establish and maintain contacts across borders (Lantschner 2018).

6

The Berlin Process was set up in 2014 as a platform for high-level cooperation between high official representatives of the Western Balkan Six (WB6), consisting of Albania, Bosnia and

Herzegovina, Kosovo, Montenegro, North Macedonia and Serbia, and their peers in Berlin Process host countries. The Process also involves the EU institutions, international financial institutions and the region's civil society, youth and businesses. Accessed November 21, 2022: <https://www.berlinprocess.de/>.

7

Generally, bilateral agreements do not cover ethnic groups without kin-states. An exception is, for example, the 1994 Treaty of Friendship and Cooperation between the Republic of Moldova and the Republic of Turkey which contains an article regarding the Gagauz minority living in Moldova (and highlights the “ethnic, cultural and linguistic affinities” between the Gagauz and the Turkish people). The monitoring mechanism of the ECRML noticed this limitation of bilateral agreements in the case of linguistic minorities without kin-state. For example, the COMEX called on the Hungarian government to apply the existing bilateral agreements with Croatia, or if necessary to seek to conclude such agreements, in such a way as to foster contacts between the users of Beás language in Hungary and Beás in Croatia in the fields covered by the ECRML (COMEX 2016, 186).

8

The Regional Cooperation Council is the successor of the Stability Pact for Southeastern Europe. It was officially launched in 2008 with the aim to promoting and advancing the European and Euro-Atlantic integration of the region. Accessed November 21, 2022: <https://www.rcc.int/>.

9

Regulation 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European Grouping of Territorial Cooperation, OJ 2006 L 210, 19–24. Accessed November 21, 2022: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02006R1082-20140622&from=EN>.

10

For details, see the website of the Tisza EGTC. Accessed November 21, 2022: <https://tizzaett.hu/en/home/>.

11

For details, see the website of the EGTC Euroregion Nouvelle Aquitaine-Euskadi-Navarre. Accessed November 21, 2022: <https://www.euroregion-naen.eu/en/>.

12

For details, see the website of the MURABA EGTC. Accessed November 21, 2022: <https://muraba.hu/en/>

13

The Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities was opened for signature in May 1980 and entered into force in December 1981.

14

Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euroregional Co-operation Groupings. Accessed November 21, 2022: <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=206>.

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